
(2013) 01 AHC CK 0025

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 4217 of 2013 & Civil Miscellaneous Writ Petition No. 4217 of 2013

Shiv Prakash Kesarwani

APPELLANT

Vs

Electricity Ombudsman and Others

RESPONDENT

Date of Decision : 24-01-2013

Acts Referred:

Citation : (2013) 99 ALR 757

Hon'ble Judges : Zaki Ullah Khan, J; Satya Poot Mehrotra, J

Bench : Division Bench

Judgement

Satya Poot Mehrotra and Zaki Ullah Khan, JJ.—The present Writ Petition has been filed by the petitioner under Article 226 of the Constitution of India, inter alia, praying for quashing the Order dated 23.11.2012 (Annexure-1 to the Writ Petition) passed by the respondent No. 1 and the Order dated 9.12.2011 (Annexure-2 to the Writ Petition) passed by the respondent No. 2. It appears that the petitioner applied for electricity connection, which was granted to the petitioner. The petitioner was aggrieved by the Electricity Bill issued to him.

2. For redressal for his grievance, the petitioner approached the Electricity Consumer Grievance Redressal Forum, Allahabad (Respondent No. 2). The respondent No. 2 by the Order dated 9.12.2011 disposed of the matter granting certain relief's to the petitioner.

3. The petitioner, thereafter, approached the Electricity Ombudsman, Lucknow (Respondent No. 1).

4. The respondent No. 1 by the Order dated 23.11.2012 disposed of the matter observing that the finalisation of the dispute was accepted in view of the settlement in regard to the dispute under One-Time Settlement Scheme and the acceptance of such settlement by the petitioner by making full payment as per the settlement. It was noticed in the Order dated 23.11.2012 that the petitioner under the One-Time Scheme had deposited an amount of Rs. 18,672/-.

5. As regards the objection of the petitioner that the said payment was made under protest, it was noticed in the Order dated 23.11.2012 that the petitioner had not produced any evidence in respect of the said objection.

6. It was further noted in the said Order dated 23.11.2012 that the settlement arrived at under One-Time Settlement Scheme was binding on both the parties, and on payment having been made on the basis of such settlement, the dispute had come to an end.

7. The petitioner has, thereafter, filed the present Writ Petition seeking the reliefs, as mentioned above.

8. We have heard Sri Subhash Gosain, learned Counsel for the petitioner and Sri Mahboob Ahmad, learned Counsel for the respondent No. 3.

9. It is submitted by Sri Subhash Gosain, learned Counsel for the petitioner that the deposit made by the petitioner under One Time Settlement Scheme was under protest and, therefore, the respondent No. 1, acted illegally in passing the Order dated 23.11.2012 observing that the dispute had come to an end on account of deposit having been made under one Time Settlement Scheme.

10. We have considered the submissions made by Sri Subhash Gosain, learned Counsel for the petitioner, and we find ourselves unable to accept the same. In the Order dated 23.11.2012 passed by the respondent No. 1, the respondent No. 1 noted that even though in the Replication filed before the respondent No. 2, the petitioner alleged that the payment had been made under protest but no evidence was produced by the petitioner in this regard. Even before this Court, the learned Counsel for the petitioner has only placed reliance on the averments made in the said Replication and the Computation filed with the said Replication. No evidence has been placed before this Court to show that the dispute under One Time Settlement Scheme was under protest.

11. In our opinion, the petitioner has taken benefit of the settlement under One Time Settlement Scheme by making deposit of the amount under the said Scheme, and in the circumstances, the petitioner cannot be permitted to agitate that the deposit was made by him under protest, particularly when nothing is on record to substantiate such a plea.

12. The Writ Petition filed by the petitioner lacks merits, and the same is liable to be dismissed. The Writ Petition is accordingly dismissed.