

(2006) 11 NCDRC CK 0015

In the National Consumer Disputes Redressal Commission

STATE ELECTRICITY BOARD

APPELLANT

Vs

SAI WIRE INDUSTRIES

RESPONDENT

Date of Decision : 27-11-2006

Acts Referred:

Citation : 2006 3 CPR 391 : 2007 1 CPJ 240

Hon'ble Judges : K.S.Gupta , P.D.Shenoy J.

Final Decision : Revision Petition allowed

Judgement

1. THE issue involved in this case is whether revision of the estimate by the Electricity Board (hereinafter be referred as Board) to shift the pole/poles to suit the requirement of a consumer after depositing the originally estimated amount can be construed as deficiency in service. THE simple answer to the question is "No".

2. THE case of the complainant is that M/s. Sai Wire Industries is a consumer of Electricity Board with electric connection No. 62564. During the construction of the factory he wanted a pole of 33 KV to be removed. THE Board raised a demand note of Rs. 7,075 as shifting charges which the complainant deposited on 21.2.1998. As shifting of the pole was not done for a period of four months he filed a complaint before the District Forum demanding 18% interest on the deposited amount with Rs. 2,000 as compensation and Rs. 600 as costs. This was contested by the Board stating that when the work was being executed it was found that removal of two other electricity poles were required and in addition hundred metres of aluminium wire were required to complete the work, hence revised estimate of Rs. 48,000 was prepared, which was intimated to the complainant on 1.4.1998 with the request to deposit the amount to enable the Board to execute the work. THE District Forum directed the complainant to deposit this amount to enable the Board to complete the task immediately. THE complainant filed an appeal before the State Commission which decided the case on 24.4.2002 with the following observations : "No appeal lies against the consent order, however, the appellant has filed the affidavit of the Counsel who

conducted the case on behalf of the appellant before the District Forum. Hence, it would be just and proper to remit the case to the District Forum for deciding the complaint afresh after giving an opportunity to the parties to adduce evidence on the issue whether shifting of line of 33 KVA passing over the plot of land, requires an expenditure of Rs. 48,000 as on 21.2.1998 or not or the estimated amount of Rs. 7,075 deposited by the appellant. It is made clear that the deposit of Rs. 7,075 would not be treated as an estoppel against the Board. In the result, the appeal is allowed. THE order of the District Forum is set aside and the case is sent back to the District Forum for deciding the same afresh in accordance with law. In the circumstances, parties to bear their own costs." Accordingly, the District Forum re-heard the matter and observed that : "It is apparent from the estimate and the affidavit presented by the non-applicant that for shifting of the disputed electric line to somewhere else there will be expenses of Rs. 48,000. That has not been controverted by the complainant, and passed the order on 13.10.2003 to the effect that : "On deposit of Rs. 48,000 by the complainant, the non-applicant shall shift the disputed 33 KVA electric line to somewhere else. If any amount is deposited by the complainant then the same amount be adjusted in the aforesaid amount."

Aggrieved by this order of the District Forum, the complainant filed an appeal before the State Commission. The State Commission held that revision of the estimate is to be wholly unjustified and allowed the appeal directing the Board to execute the work as per the initially agreed amount of Rs. 7,075.

3. DISSATISFIED by the order of the State Commission, the Board has filed this revision petition. It is clear from the order of the State Commission dated 24.4.2002 that while the matter was remanded to the District Forum, it was stated that the deposit of Rs. 7,075 would not be treated as an estoppel against the Board. This means that the District Forum had every right to go through the merits on the case and pass a judicious order. It is true that the original estimate was for Rs. 7,075 and the work could not be executed as at the time of execution it was found that this estimate was not as per the technical standard laid down by the Madhya Pradesh State Electricity Board and this observation cannot be construed as deficiency in service. Page 60 of the paper book gives the details of the estimates of more than 13 items and calculations to arrive at a figure of Rs. 48,000. Page 61 gives the sketch of the existing line and shifting of proposed line and this is supported by an affidavit of the technically qualified Executive Engineer of the Electricity Board. Merely because in the first estimate it was not mentioned that it was a tentative estimate, we cannot draw a conclusion that it was deficiency of service. Electricity Board does not run with the motive of earning profit as its sole objectives are transmission and distribution of electric power to the various types of consumers and it cannot be expected to incur loss in executing the work to the benefit of a consumer who runs a factory. Accordingly, we hereby allow the revision petition and set aside the order of the State Commission dated 14.10.2004 and confirm the order of the District Forum dated 13.10.2003. There shall be no order as to costs. Revision Petition allowed.