

(2003) 12 NCDRC CK 0123

In the National Consumer Disputes Redressal Commission

U.P.S.E.B.

APPELLANT

Vs

SUSHILA DEVI

RESPONDENT

Date of Decision : 03-12-2003

Acts Referred:

Citation : 2004 1 CPJ 573 : 2004 2 CLT 382

Hon'ble Judges : K.D.Shahi , Surendra Kumar J.

Final Decision : Appeal allowed

Judgement

1. THIS is an appeal against the judgment and order dated 29.8.1995 passed by the District Forum, Nainital directing the appellant to refund the amount deposited by the complainant along with interest @12% and Rs. 1,000/- as compensation and Rs. 500/- as cost of litigation.

2. THE brief facts of the case are that the complainant had applied for removal of electric polls from her plot. THE Electricity Department directed her to deposit Rs. 21,447/-. THE complainant deposited the amount but still the polls were not removed. THEREfore, the complainant filed the complaint. The opposite party filed written statement and alleged that since "No Objection Certificate" was not submitted, therefore, the polls could not be removed. The learned Forum did not pass the order for the removal of the polls but it only directed the Corporation to refund the amount to the complainant along with interest.

The deposit was made in the year 1993, the polls could not be removed till 1995. Still the money of the complainant was not returned or refunded. The learned Forum has got no option but to order for the payment of interest. The learned Forum, therefore, directed to pay interest @12%. This appeal was filed for two reasons. It is said that the order of compensation is illegal. We agree that if there is no deficiency in service, there should not be any compensation even otherwise interest has been granted to the complainant. This interest has not been granted merely for deficiency in service but also for the retention of the amount by the appellant without any reason. They must have earned out of this money, they must pay interest to the complainant.

3. WHEN the appeal was filed by the complainant, the State Commission, Lucknow ordered on 4.1.1996 that meanwhile if within a month from today the appellants pay to the complainant and respondent a sum of Rs. 21,447/- deposited by the complainant with the U.P.S.E.B. and also pay a sum of Rs. 500/- awarded as cost to the proceedings, realization the remaining amount due from the appellants under the order of the District Forum under challenge in the appeal shall remain stayed until orders to the contrary by the Commission. The appellant did not inform whether this order has been complied with or not and if the order has been complied by 4.2.1996, the question of payment of interest thereafter shall not arise because the amount has been paid but if the amount has not been paid then the Electricity Department is playing with the complainant because they did not refund the amount earlier, they did not refund the amount to the complainant when the complaint was filed, they did not refund the amount when the complaint was allowed by the Forum and even after the direction by the State Commission on 4.1.1996 the amount does not appear to have been paid or refunded. Therefore, the order of payment of interest must remain intact. As regards the amount of compensation, this order has to be modified. The complainant has unnecessarily been forced to file the complaint therefore she must get cost. ORDER The appeal is allowed to the extent that the order of payment of compensation of Rs. 1,000/- is set aside. The rest part of the order shall remain intact and is confirmed. If some amount has been paid under the order of Lucknow State Commission that shall be adjusted. Appeal allowed.