

(2006) 09 NCDRC CK 0003

In the National Consumer Disputes Redressal Commission

UTTARANCHAL POWER CORP LTD.

APPELLANT

Vs

GOSWAMI KHARIA FACTORY

RESPONDENT

Date of Decision : 04-09-2006

Acts Referred:

Citation : 2006 0 NCDRC 98 : 2006 3 CPR 300 : 2006 4 CPJ 320

Hon'ble Judges : K.S.GUPTA J.

Advocate : D.K.SHARMA

Judgement

1. THIS revision is directed against the order dated 8th September, 2004 of Consumer Disputes Redressal Commission Uttaranchal, Dehradun allowing appeal against the order dated 15th December, 2001 of a District Forum and directing the petitioner/opposite party-Corporation to issue fresh bill after deducting the amount of minimum charges from the date of burning of transformer till it was replaced and on making payment of revised bill so issued by the respondent/complainant, restore supply of electricity of the respondent.

2. IN nutshell, facts giving rise to this revision are these. Respondent who has been running Kharia factory at Halduchaur, was provided electric load of 32 H.P. by the petitioner on 19th March, 1994. Respondent alleged that as State Bank of India did not provide financial assistance, it was unable to purchase raw material due to which there was less production in the factory and electricity bills could not be paid. On 15th July, 1997, transformer installed in the factory was burnt and was replaced only on 19th December, 1997 on making certain payments. Again in March, 1998, electricity was disconnected. In the bill of Rs. 80,000 the petitioner had added charges for the period during which electric connection remained disconnected. Claiming quashment of bill and other reliefs the respondent filed complaint which was contested by the petitioner. It was not denied in written version that respondent was provided 32 H.P. load and transformer was burnt on 15th July, 1997. However, it was alleged that as amount of Rs. 72,868.52 was outstanding against the respondent, the burnt transformer was not replaced. By the order of Chief Engineer dated 7th

November, 1997, respondent was permitted to pay the outstanding amount in six instalments of Rs. 8424.80 each. Respondent deposited the first instalment on 9th December, 1997 and immediately thereafter new transformer was installed in the factory of respondent. Out of said amount of Rs. 72,868.52, only an amount of Rs. 9,575 was paid by the respondent. Electricity connection was, therefore, again disconnected. Though respondent was again extended facility of the payment of outstanding amount in eight easy instalments still it failed to clear the dues. It was claimed that respondent is liable to pay minimum charges even for the period the electricity remained disconnected. Controversy in this revision mainly revolves around the right of the petitioner to claim minimum charges for the period the electricity supply to the respondent remained disconnected. Sri Vinay Garg for petitioner invited my attention to para No. 13.2 in Chapter XIII of the Booklet of the Boards orders which read as under: "In the event of delay in the replacement of a transformer beyond one month from the date of damage/ theft of the transformer, the consumer(s) affected by the same are to be allowed a proportionate reduction in the minimum guarantee/fixed charge for the period supply remained disconnected to the consumers after 30 days of the transformers having been stolen or damaged. However, the above concession in minimum consumption guarantee/ fixed charges is not to be allowed to such consumers against whom dues are outstanding and action for disconnection of their supply is already proposed or has been initiated. Further, the replacement of transformer in such case is also to be done after clearance of dues by the consumer. In case where more than one consumer is affected due to burning/ stealing of transformer, the transformer is to be replaced but the supply of defaulting consumers should be kept disconnected till the liquidation of arrears."

3. BARE reading of the said para would show that concession of proportionate reduction in minimum charges is not to be extended to a customer whose electricity supply remained disconnected for not having cleared the electricity charges. It is admitted by the respondent that he was in arrears of electricity dues at the time the transformer was burnt and even thereafter. Validity of above para 13.2 is not under challenge in these proceedings. State Commission had, thus, acted erroneously in passing aforesaid order dated 8th September, 2004 and the same deserves to be set aside and complaint dismissed.

4. ACCORDINGLY , while allowing revision, the order dated 8th September, 2004 is set aside and complaint dismissed. No order as to cost.