

(2008) 02 NCDRC CK 0051

In the National Consumer Disputes Redressal Commission

W B STATE ELECTRICITY DISTRIBUTION CO LTD

APPELLANT

Vs

PARITOSH KR GHOSH

RESPONDENT

Date of Decision : 13-02-2008

Acts Referred:

Citation : 2008 3 CPJ 130

Hon'ble Judges : S.N.Basu , S.Majumder J.

Final Decision : Appeal dismissed

Judgement

1. -THIS appeal has arisen against the judgment passed by the District Forum, Jalpaiguri, on 23. 4. 2007 in the case No.-C. F.-78/2006, wherein the Forum below has allowed the complaint in part on contest and directed the OP-WBSEDCL to pay compensation of Rs. 1,000 for mental and physical harassment and litigation cost of Rs. 100 to the complainant within two months from the date of the judgment.

2. THE brief facts of the case of the Complainant before the Forum below were that the Complainant applied for getting domestic electric connection on 6. 4. 2006 and the OP accepted the said application. As per the quotation raised by the OP, the Complainant deposited money amounting to Rs. 835 on 21. 7. 2006 and the OP gave assurance to him that electric connection would be provided within 10 days. But the OP did not provide any electric connection till 10. 11. 2006. On 11. 11. 2006, the Complainant wrote a letter to the OP for providing electric connection, but the OP did not due to outstanding dues in the same premises. But the actual fact is that the Complainant resides in a separate premises bearing separate holding number and there were no outstanding dues against his name. As the OP did not care to provide him connection, thereafter finding no other alternative the Complainant filed the complaint before the Forum below praying for direction upon the OP to provide immediate electric connection and also prayed for compensation of Rs. 10,000 for mental and physical harassment as well as litigation cost. Being aggrieved with the above-mentioned judgment the OP-Appellant has preferred the present appeal before this

Commission contending that the Forum below has failed to appreciate that the present Respondent got new electric connection on 10. 1. 2007 and on the next date i. e. 11. 1. 2007 the Respondent-Complainant filed the complaint before the Forum below with a view to have huge compensation. The learned Counsel for the appellant has submitted that in the course of inquiry it was found that there was disconnected supply in the premises of the present Respondent, which he did not disclose. This fact was intimated to him and he was requested to take steps so that the outstanding amount may be recovered. But the Forum has failed to appreciate that the public revenue cannot be given go by without taking bona fide steps for recovery of the amount. The appellant has further submitted that the respondent cannot avoid his liability towards the outstanding dues in the premises in question, clarification was sought for from him as to why he would be held responsible for the outstanding dues in the premises and a series of correspondences were made between the parties and thereafter reasonable time i. e. a period of five months were lapsed for taking final decision in the matter and ultimately, the connection was given on 10. 1. 2007. According to the appellant, the judgment passed by the District Forum is erroneous, unjust, illegal and liable to be set aside and also prayed for allowing the appeal.

On careful perusal of the record and documents, it is seen by us that the Respondent applied for getting electric connection for domestic purpose on 6. 4. 2006 to the appellant-WBSEDCL and the said application was accepted by the appellant. Thereafter, as per the quotation raised by the appellant, the Complainant-Respondent deposited the money amounting to Rs. 835 on 21. 7. 2006. But in spite of taking money from the Respondent, the appellant did not provide any electric connection, though several correspondences were made on behalf of the Respondent with the appellant, to no effect on the plea that there were outstanding dues in the same premises. But it is an admitted fact that the Complainant-Respondent resides in a separate premises bearing separate holding number and there were no outstanding dues against his name. As the Appellant did not care to provide him connection, he filed the complaint before the Forum below. The learned Counsel for the Appellant has submitted that Respondent got new electric connection on 10. 1. 2007 and on the next date i. e. 11. 1. 2007 the Respondent-Complainant filed the complaint before the Forum below with a view to have huge compensation. In this context, we are to say that it is not true that the complaint was filed on 11. 1. 2007, as the Forum's case number is 78/2006; therefore, the Respondent-Complainant initiated the complaint in the year 2006. It is also true that during pendency of the complaint before the Forum below the present Appellant provided electric connection to the Respondent. Therefore, it is clear that the Complainant before the Forum below effected the electric connection after filing of the complaint and for getting electric connection, he had to approach before the Court of Law inspite of payment of the entire quotation amount as claimed by the Appellant. The Appellant's own submission is that after five months from the date of application by the Respondent, the electric connection was given to the Respondent. In our view, such action on the part of

the Appellant-WBSEDCL is a glaring example of deficiency in service on behalf of the Appellant. It has been submitted by the Appellant that connection could not be effected on the ground of outstanding dues in the premises in question. In this respect we are of the opinion that it is settled principle that WBSEDCL cannot claim the outstanding dues which is not lying in the applicant's name. In the instant case, as there were no outstanding dues in the name of the Respondent, he was very much entitled for getting electric connection, moreover where the entire quotation money was paid by him.

3. THEREFORE, we are of the opinion that there is no legal infirmity or jurisdictional error in the order passed by the learned Forum below in awarding compensation and cost in favour of the present Respondent. Hence, it is ordered that the Appeal be dismissed ex parte without any cost and the judgment passed by the Forum below be affirmed. Thus, the appeal be disposed of accordingly. Appeal dismissed.