

S. Alisher Vs. the Assistant Engineer Apspdcl and Others

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Court : Andhra Pradesh State Consumer Disputes Redressal Commission
SCDRC Hyderabad

Decided On : Feb-15-2013

Judge : Mr. R. Lakshminarasimha Rao, Honourable Member & Mr. Thota Ashok Kumar, Honourable Member

Appeal No. : F.A.No.200 of 2012 Against C.C.No.59 of 2011 District Forum
Kadapa Ysr District

Appellant : S. Alisher

Respondent : The Assistant Engineer Apspdcl and Others

Judgement :

Oral Order: (Sri R. Lakshminarasimha Rao, Honble Member)

1. The unsuccessful complainant is the appellant. He filed complaint seeking direction to the respondents to pay a sum of `75,000/- towards compensation and `25,000/- towards damages as also costs.

2. The case of the appellant as seen from the contents of the complaint is that he obtained electricity connection under HTSC CD No.CDP 1119 for his business firm, M/s Decent Metal Crushing Works at Muddalur village in Kadapa District. The appellant paid the bill dated 11.10.2010 a sum of `27,349/-and in the bill the arrears is shown as zero. The respondents issued notice dated13.12.2010 demanding for an amount of `49,944/-payable on or before 26.12.2010.On being

requested, the first respondent orally assured the appellant that he can pay the consumption charges of `24,626/-, the appellant paid the amount.

3. The respondents issued notice dated 11.12.2011 demanding consumption charges of `24,714/- and arrears of `1,21,791/- to be paid on or before 25.01.2011. The appellant requested the respondents that he was not due any arrears and the respondents promised him that they would verify their records and permitted the appellant to pay the consumption charges of `24,714/- which he paid on 27.01.2011. The appellant suffered mental tension and got issued notice to the respondents claiming compensation to the tune of `1,00,000/-, for they had shown the arrears as nil for the month of September,2010 and demanded an amount of `74,570/- in the bill for the month of Novmeber,2010 and the amount of `1,21,791/- in the bill for the month of December,2010.

4. The respondents resisted the claim on the premise that the appellant obtained the electricity connection under LT category and not under HT category. The appellant paid consumption charges of `27,349/- and the respondents issued notice dated 13.12.2010 to him to pay arrears of `49,644/-. The Additional Divisional Engineer inspected the power connection of the appellant and found that the appellant was using extra load than he was permitted and subsequent to the inspection of the connection, the appellant applied for conversion of the category of connection from LT to HT category. The appellant executed agreement to the effect that he would be bound by the terms thereof.

5. The change category of connection was effected from 19.01.2009. The arrears in the bill for the month of September,2010 was shown as nil because the records were sent to the auditor and also in view of the change in category of the connection shortfall was to be assessed by the auditing department. The respondents issued notice demanding for consumption charges of `24,626/- and `49,944/- towards arrears payable on or before 13.12.2010. After receiving the records the amount under the head of arrears was claimed. The respondents issued reply to the notice of the appellant. The arrears were claimed in accordance with the rules and regulations . The appellant has to pay arrears to the extent of `1,22,087/- till June,2011. The appellant has to approach the grievance redereasal

forum and the complaint is not maintainable before the District Forum.

6. The appellant filed his affidavit and the documents, ExA1 to A5 and on behalf of the respondents, the Senior Accounts Officer, Operation filed his affidavit and the documents, ExB1 to B12.

7. The District Forum dismissed the complaint on the premise that after the category was converted from LT to HT, the appellant had changed the name of the Firm from M/s Decent Metal Crushing Works to M/s Royal Stone Crushers and the complaint filed in individual capacity is not maintainable. The District Forum observed that the electricity bills were issued in the name of M/s Decent Metal Crushing Works and the appellant has not suffered any loss as the electricity supply to the Firm was not disconnected.

8. Aggrieved by the order of the District Forum, the complainant has filed appeal contending that the District Forum has not considered his affidavit and the documents filed by him. It is contended that the District Forum failed to observe the variation in the amounts claimed under ExA1 to A3 towards the arrears and that notice under ExB12 was not served on the appellant.

9. The points for consideration are:

i) Whether the appellant is entitled to claim compensation being a defaulter?

ii) Whether the respondents rendered deficient service by issuing notice with variable amount towards arrears?

iii) To what relief?

10. POINTS NOs.1 and 2: There is no dispute of the fact that the appellant has been running a firm under the name and style, M/s Decent Metal Crushing Works and for the purpose of its functioning he obtained electricity connection under HTSC No.CDP1119 and subsequently the name of the Firm was changed from M/s Decent Metal Crushing Works to M/s Royal Stone Crushers. The appellant applied for supply of power under LT Category at the time the unit was proposed to be established. It is not disputed that the additional divisional engineer

inspected the electricity connection of the appellant and found the consumption of excess load. Consequent upon the finding of the Additional Divisional Engineer, the appellant applied for conversion as the category from LT to HT and accordingly, the respondents approved the change for conversion of category from LT to HT.

11. The conversion of category from LT to HT of the power connection sanctioned to the appellant was approved with effect from 19.01.2009. The respondents issued bills, ExA1 to A3 claiming consumption charges and arrears. The appellant has filed complaint that there is variation in the amount claimed towards arrears under ExA1 to A3. It is pertinent to note that the appellant has not denied that he used extra load of power than what was permitted.

12. The appellant has not paid the arrears despite they being claimed in each bill. In his cross examination he has stated that:

It is true that I have received the detailed reports about the arrears and short fall amount to my industry dated 18.06.2009 from Superintending Engineer of APCPDCL, Kadapa. It is true from 26.02.2009 up to date the short fall amount was shown in the demand notices, but I paid only consumption charges by keeping aside the short fall amount.

13. The appellant has not paid the short fall amount for the period from January, 2006 till August, 2006 an amount of `74,0003/ and in addition to the amount, he was required to pay low power surcharge and unpaid balance amount of `42,964/-. RW1 has deposed about the amount payable by the appellant as :

The Internal Auditors raised short fall amount of Rs.74,003/- for the period from 1/06 to 8/06 (copy enclosed) for 8 months vide Audit Slip No.40 of 9-06 towards low power factor surcharge. The same included in the C.C.Bill in 4/2007 vide Rj.No.14 of 3/2007. But the consumer not paid said the amount even though the same appeared in every bill from 4/2007 to 12/2008, i.e. upto the service transferred to HT, in addition to the said amount the unpaid balance of rs.42,964/- totaling Rs.1,16,967/- transferred to HT Section and the same included vide Rj.No.4 of 11-2009 in the HT bill. The same exhibited in his bill for the period from

11/2009 to 8/2010 i.e. the service converted from HT to LT IIIB (SCNO.185 to 1119). Therefore, the fact of levy of audit short fall and including in the bills very well known to the petitioner.

14. The short fall amount and its details are stated in his chief examination by RW1 in the following words:

Further the Internal Auditors short fall raised for Rs.63,625/- vide Audit Slip No.4 of 6-2008 for the period from 10/07 to 11/07 for utilizing of excess load than sanctioned load of 51 HP

Again an amount of Rs.26,320/- short fall raised Vide Audit Slip No.25 of 11-2008 for the period from 10/2008 to 11/2008 due to excess load utilized than the sanctioned load of 51 HP.

Out of the above three audit short falls the first one already included in the CC bill (as stated under Item No.3.2) the remaining two short falls of Rs.63,625/- + Rs.26,320/- included by the HT sanction vide Rj.No.10 of 12/2010 and 11 of 12/2010 by duly giving notice to the consumer vide this office Lr.No.SE/O/KDP/SAO/JAO/HT/D.No.574/10, dated: 27-10-2010.

Out of total short fall amount of Rs.1,63,948/- (Rs.74,003+63,625+26,320) an amount of Rs.30,411/- withdrawn HT Rj.No.4 of 8-2010 for the period from 1/2006 to 3/2006 of Lower power factor surcharge. So the balance amount till to be paid by the consumer Rs.1,33,537/- (Rs.1,63,948-30,411/-) Rs.11,350/- adjusted (due to revision of bill HT to LT IIIB), net amount of Rs.1,22,087/- yet to be paid.

15. The reason shown for variation in the amounts claimed as arrears in ExA1 to A3 is that the additional load was made subject to production of SSI certificate and the bills were revised from 19.01.2009 to 26.08.2010 as also the internal auditing would be made once in six months and due to manual transfer of arrears in respect of the earlier service connection to the connection number 1119 which was not fed to the computer as the system generated bill would not contain the arrears until they were updated which is a time consuming process. RW1 has elaborately stated the reasons as follows:

The arrears were not shown in the month 9/2010 at that time the service No.1895 transfer to 1119 the manually. The old arrears against HT SC No.185(715) manually transferred to LT SC No.1119 due to the computer systems are difference for LT 715, HT185 and LTIIB 1119. Meanwhile the notices generated by the computer automatically without showing arrears, but exhibiting in the bills of LT SCNo.715 and HT SCNo.185. Hence the complainant fully aware the facts shown above that the transfer of service from ERO to Kadapa HT and HT to LT IIB.

on releasing of additional load on 19.01.2009 (Total load 101HP) but service converted as HT 185 due to non-producing of SSI Certificate. After producing the SSI Certificate by the consumer the entire HT bills from 19.01.2009 to 26.08.2010 revised under LT Cat-IIB(9/10 bill already issued under LTIIB) excess billed amount of rS.1,15,096/- withdrawn vide Rj.No.7 of 10/2010 and 8 of 10/2010 (detailed calculation sheet enclosed). The same fact also intimated to the consumer.

16. It is settled law that demand for short fall amount is within the domain of the power generating/distributing company and unless there is manifest irregularity shown in assessment or demand for the arrears, there can be any finding holding the respondents responsible for loss if any, caused to the appellant. The appellant has not suffered any loss and he admitted that there was no disconnection of power supply to the Firm since the date of demand made by the respondents till filing of the complaint by him before the District Forum. He has stated as under:

I do not know the rule position of electricity. I do not know if the category is changed from LT to HT. The entire records regarding LT will be sent to the Central Office Kadapa for changing of category. Now my service no. is 1119. Even till today the department did not disconnect my service. Now I am running the crusher machines. It is true there is no loss to my business and no disturbance to my crusher machines by the opposite party but harassing me.

17. The appellant has demanded for payment of compensation on the premise that there has been discrepancy in the amount shown in ExA1 to A3. The reasons assigned for the discrepancy in the amounts mentioned in ExA1 to A3 towards

arrears is convincing and admittedly the appellant has not paid any arrears till today as also he had not suffered any loss on account of the variation the amount claimed as arrears by the respondents. The electricity connection was sanctioned in the name of Firm and the name of the Firm has been changed from M/s Deccan Metal Crushing Works to M/s Royal Stone Crushers which is not made party to the complaint. The claim for compensation and damages is misconceived and the appeal is liable to be dismissed.

18. In the result, the appeal is dismissed confirming the order of the District Forum. The parties shall bear their own costs.

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