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Court : Kerala State Consumer Disputes Redressal Commission SCDRC
Thiruvananthapuram

Decided On : Jun-30-2012

Judge : The Honourable Mr. K. Chandradas Nadar Judicial Member

Appeal No. : First Appeal No. A/12/221 (Arisen out of Order Dated 15/11/2011 in
Case No. CC/08/214 of District Malappuram)

Appellant : Ramachandran

Respondent : Assistant Engineer, Electrical Section, Kseb and Another

Judgement :

SHRI. K. CHANDRADAS NADAR : JUDICIAL MEMBER

The appellant was the complainant in CC No.214/08 in the CDRF Malappuram. He was a consumer of electricity supplied to his house by the opposite parties. He approached the Forum alleging that he had been paying electricity charges regularly. The electric meter installed by the opposite parties was noted to make abnormal sound and glow of light was seen all the time. The complainant intimated this to 1st opposite party but the meter was not changed saying that there was no stock of meters. On 06.05.2008 he gave a complaint directly and noted the same in the complaint book provided by the opposite parties. There after two persons from the office of opposite parties came and checked the meter and informed the complainant that it was not working properly. They repaired the meter and

checked the entire wiring. They said that the meter was not working and it would be replaced within two days. The complainant and his family did not suspect foul play. On 13.9.2008, the 1st opposite party along with 3 others and the ward member came to the house of the complainant. He was not present and only his wife and children were at home. The ward member and the complainant are not on good terms. The 1st opposite party entered the house and checked the meter. The supply was disconnected. The complainant's wife was directed to come to the office of the 1st opposite party on 15.9.08. The complainant made enquiries as to the reason for disconnection. The 1st opposite party behaved in a rude manner. On 15.9.08 the complainant's wife was asked to sign on a paper in which nothing was written. At the instruction of the 1st opposite party the complainant contacted him and the complainant was told that there was theft of electricity. The complainant is working near Bellari in Karnataka. The complainant's wife and children are residing in the house. There was no one to tamper the meter. The meter was taken to Shornur. The meter was not seen sealed and complainant's objection was not considered. The opposite parties issued penal bill for Rs.1,97,789/- on 22.9.08. The complainant has not committed any theft of electricity. The bill is illegal. Hence the complainant prayed that the penal bill may be cancelled. He further claimed compensation and costs.

2. The opposite parties filed version contending that the connected load of the consumer was 2505 watts. The Anti Power Theft Squad, Kozhikode conducted an inspection at the premises of the complainant on 13.09.08 along with the Sub Engineer of the Thirurangadi, Electrical Section. The seals of the energy meter were found tampered. The meter was seized and sealed in the presence of family members of the complainant. The supply was maintained by installing a new meter. The connected load was found to be 10.715 KW. Site mahazar was prepared. The sealed meter was produced before the Executive Engineer, TMR Division, Shornur for testing. A resistor was seen externally soldered in the printed circuit board by which the meter was made to record less energy than the actual energy consumed. It was found that theft of energy had been committed by tampering the meter. Based on the test report and inspection report of Anti Power Theft Squad a provisional bill for Rs.1,97,789/- was issued under Sec.126 and Sec.135 of Indian Electricity Act, 2003. The supply was then disconnected on

22.09.08. A police case is also registered. The allegation that the consumption of electricity of the complainant was low is not true. The electric meter was recording only 35% of the actual consumption as a result of the resistor externally soldered in the printed circuit board. The meter was handed over to the police for production before Judicial First Class Magistrate Court, Parappanangadi in connection with FIR No.553/2008 of Tirurangadi Police station registered against the complainant. The bill issued to the complainant is legal. He had not lodged any complaint against the meter. On 6.5.08 no person from the office of the complainant went to the premises of the complainant for checking or repairing the meter prior to the inspection as alleged by the complainant. On the date of inspection power supply was not disconnected. Supply was disconnected only after receiving the meter test report. The allegation that there is political vengeance is denied. There is no deficiency in service.

3. No oral evidence adduced before the CDRF, Malappuram by any of the parties. Exts.A1 and A2 were marked on the side of the complainant and Ext.B1 was marked on the side of the opposite parties. The Forum below held that since theft of electric energy is involved, the complaint is outside the scope of its jurisdiction. Accordingly the Forum dismissed the complaint, further holding that deficiency in service could not be found on the materials and evidence placed before it. The aggrieved complainant has preferred this appeal. The correctness of the conclusions of the Forum is assailed in this appeal.

4. The appellant has a case that he had lodged a complaint by directly writing in the complaint book of the opposite parties on 6.5.08 regarding the faulty functioning of the disputed electric meter. The respondents have produced along with their version, the complaint register during the relevant period. It clearly shows that no such complaint was lodged on 6.05.08. When the Anti Power Theft Squad of the opposite parties inspected the meter installed at the complainants house, the seals of the energy meter were found tampered. It was accordingly the meter was seized after preparing mahazar and sealed and produced before the Executive Engineer, TMR Division, Shornur for testing. The copy of the site mahazar prepared on 13.9.08 is among the records produced along with the version. It is specifically mentioned that the security seals of the meter were seen

tampered. The connected load included apart from ten fans, several lights, two air coolers, two window type A/cs, five exhaust fans, inverter, refrigerator, mixer, one water heater, iron box, electric pump etc. This was as against the connected load of 2505 watts. The very allegation in the complaint shows that the appellant was paying electricity charges of Rs.400 or Rs.500/- only. Apparently this was made possible because of the tampering of the electric energy meter. A resistor was seen externally soldered in the printed circuit board, compared with the similar meter printed circuit board which caused reduced energy recording. This is evident from the test report. The sealed meter was tested after prior intimation to the complainant to appear on 29.9.08 at 10.30 am at the office of the Executive Engineer, TMR Division, Shornur where the testing was done. So it appears that testing was done by the opposite parties following proper procedure. Once it was found that the seal of the energy meter was tampered and theft of electric energy was committed. Complaint was lodged before the Judicial First Class Magistrate Court, Parappanangadi and FIR No.553/08 was registered. The excess consumption of electricity was duly assessed and a provisional bill was issued to the complainant. There after only the challenged bill for Rs.1,97,789/- was issued. The circumstances referred to clearly support the conclusion of the CDRF, Malappuram that there is no deficiency in service on the part of the opposite parties. The learned counsel for the opposite parties relying on the decision of the National Consumer Dispute Redressal Commission New Delhi in Paschim Gujarat Vij Company Ltd. Vs. Navinbhai K. Bhadra 2011 (1)CPR 312 (NC) pointed out that when there is tampering of energy meter section 126 of the Electricity Act 2003 has no application. There is also no circumstance to discredit the test report of the Executive Engineer, TMR Division, Shornur. As rightly observed by the Forum this is a case of theft of electrical energy after clearly tampering with the meter. Such a matter is outside the purview of the Consumer Disputes Redressal Forums and no deficiency in service can be found out. Hence the appeal is devoid of merit.

In the result, the appeal fails and is accordingly dismissed but without costs.

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