

M.P.Ramakrishnan Vs. the Assistant Executive Engineer, Electrical Major Section and Another

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Court : Kerala State Consumer Disputes Redressal Commission SCDRC
Thiruvananthapuram

Decided On : Apr-28-2012

Judge : The Honourable Shri. Justice K.R. Udayabhanu President

Appeal No. : First Appeal No. A/11/495 (Arisen out of Order Dated 25/11/2010 in Case No. CC/01/23 of District Wayanad)

Appellant : M.P.Ramakrishnan

Respondent : The Assistant Executive Engineer, Electrical Major Section and Another

Judgement :

JUSTICE SRI. K.R. UDAYABHANU : PRESIDENT

The appellant is the complainant in OP.23/01 in the file of CDRF, Wayanad. The complaint stands dismissed.

2. It is the case of the complainant that the electricity connection with respect his petrol bunk he was served with an exorbitant bill amounting to 105069.37/- which is back assessment from 9/98 for 6 months and thereafter for the excess energy consumed beyond the units covered by the provisional invoice card. It is the contention that the meter was faulty since April 1999 and that the same was

intimated to the opposite party on 28.4.2000. It is also pointed out that the monthly bills were regularly paid. The additional bills issued are based on the readings in the faulty meter. It is also contented that the area is a low voltage area. The complainant has also installed diesel generator which is used from 4PM to 11PM. Hence the real consumption of the electricity is reduced to a half. The additional bill was issued on 25.1.01 for the period from 3/99 to 11/2000. The calculation in the bill is incorrect. It is also pointed out that the opposite party has issued another bill dated 12.1.01 with respect to the period from 11/2000 to 1..12..01. Therein the energy consumed is 1003 units which will workout to 401.20 units per month. The provisional invoice card is for Rs.551/- at the time. He has sought for setting aside the additional bill and for direction to install a non faulty meter.

3. The opposite parties have filed version pointing out that the complainant is running a petrol bunk cum servicing station. The complainant was remitting the energy charges as per the PIC upto 11/2000. On 14..11.1994 the meter was replaced. The above meter also was found to be defective later. The same was replaced on 20.2.99. There after the meter readings on 9/99 was 4231, on 4/2000 it is 9729 and on 11/2000 it is 13687. It was found that there was high consumption compared to what was allotted as per the PIC. The excess consumption during the period from 3/99 to 11/99 is 11902 units. The additional bill issued is for the sum amounting to Rs.105244/- charging the energy for the past period 6 months prior to the charge of meter as per the existing rules. It is denied that the area was having low voltage. It is further stated that the above bill is with respect to the excess units consumed for the period of 27 months from 9/98 to 11/2000 including the past period of 6 months prior to the date of change of meter. The average consumption of 651 units per month is charged for 6 months prior. Hence the total consumption would be 17593 units. The amount remitted as per the PIC has been deducted on 12.1.01. On the basis of spot billing the bill has been issued for Rs.7552/- for the consumption of 1003 units.

4. The evidence adduced consisted of the testimony of PW1, OPW1;Exts A1 to A9 series.

5. It is contended by the counsel for the appellant that the complainant had intimated as to the defect of the meter and has also intimated the opposite parties vide Ext.A2 dated 28.4.2000. Hence according to him the bill issued in 2001 back assessing without changing the meter cannot be approved. On the other hand it is pointed out by the opposite party that the meter was replaced only on 20.2.99 and that there is no fault with the meter and further the complainant has not applied for examination of the meter by the electrical inspectorate as per the rules and remitted the required fee.

6. It is pertinent to note that according to the complainant the meter replaced on 20.2.99 is also defective. According to him he has submitted a complaint in this regard and remitted the required fee for testing the meter. The copy of the above complaint is produced as Ext.A2 which is dated 28.4.2000. Ext.A1 is receipt for Rs.7/- apparently the required fee. According to the opposite parties the above cannot be treated as the requisition for testing the meter by the Electrical Inspectorate. We find that in Ext.A2 what has been sought is only replacement of the meter alleging that the meter is defective. The present bill which is nil dated was issued according to the opposite parties in January 2001 with the date of last payment as 31.1.2001. Evidently it is after about 2 years of replacement of the meter. Till then the complainant was remitting the bills as per the provisional invoice card. As per Ext.A3 the disputed bill the amount is claimed from 9/98 onwards excluding the amount already paid. The period also includes 6 months preceeding the installation of the new meter taking the average, altogether for 27 months. The next spot bill dated 12. 01.01 for the period 11/00 to 12. 1.01 is for Rs.7552/-, the consumption being 1003 units. According to the complainant the average bill would work out to

401.2 units per month for 2 months. We find the same is not exactly correct as the bill is a bimonthly bill. The same is marked as Ext.A4. The average calculated by the opposite party in Ext.A7 bill is 651 units per month. There is nothing positive to show that the meter is defective. The complainant is running a petrol bunk and service station. The complainant has not pursued the alleged Ext.A2 complaint. Evidently the complaint is not in the proper format also as there is no prayer for getting the meter tested by the Electrical Inspectorate. The counsel for respondent

has relied on the decision of the National Commission in Maharashtra State Electricity Board vs. K.L.Ramani 1995 I CPR 334 (NC) wherein it has been held that to grant electric connection to an applicant who had not filled a proper application to grant electric connection did not constitute deficiency in service and the case did not fall within the jurisdiction of the Consumer Fora. Hence we find thus the contention in the complaint that he had applied for testing the meter cannot be upheld in view of the fact that he has not filed a proper application. So also the contention that there is no sufficient voltage in the area and that he was mainly relying on the generator power supply also cannot be up held in view of the fact that the complainant has not produced any objective evidence in this regard including any complaints filed by him before the authorities. In the circumstances we find that there is nothing to show that the impugned bill issued did not reflect the correct calculation with respect to the electricity consumed.

7. All the same we find that issuing a bill amounting to more Rs.1 lakh after a period of 2 years is highly improper. The opposite party is rather a gigantic organization having sufficient number of employees and should have issued timely bills in this regard. There is clear deficiency on the part of the opposite parties. In the circumstances for the above deficiency the opposite parties are directed to pay a sum of Rs.7500/- towards compensation to the complainant. The above amount is to be adjusted in Ext.A3 bill of Rs.105244/-. The opposite parties are directed to provide 10 instalments for the payment of Ext.A3 bill by the complainant. The opposite parties are also not to levy any surcharge or penalty for the payment of Ext.A3 bill. The opposite parties will issue a fresh bill to the complainant as per the above directions. The order of the Forum is modified accordingly.

8. In the result the appeal is allowed in part as above.

Office will forward the LCR along with the copy of this order to the Forum.

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