

P.P. Biju Vs. the Assistant Engineer, Kseb Electrical Section and Others

P.P. Biju Vs. the Assistant Engineer, Kseb Electrical Section and Others

SooperKanoon Citation : sooperkanoon.com/1109132

Court : Kerala State Consumer Disputes Redressal Commission SCDRC
Thiruvananthapuram

Decided On : Aug-25-2011

Judge : The Honourable Shri. Justice K.R. Udayabhanu President & the
Honourable Mr. S. Chandramohan Nair Member

Appeal No. : First Appeal No. A/11/45 (Arisen out of Order Dated 30/09/2010 in
Case No. CC.156/10 of District Idukki)

Appellant : P.P. Biju

Respondent : The Assistant Engineer, Kseb Electrical Section and Others

Judgement :

SHRI. S. CHANDRAMOHAN NAIR, MEMBER

The complainant in CC.156/10 before the CDRF, Idukki is the appellant herein who is aggrieved by the order dated 30th September 2010 wherein and whereby the Forum below had dismissed the complaint.

2. The case of the complainant before the Forum below was that he had an industrial connection from the opposite parties from 2005 onwards to his plastic unit under LT IV tariff and that on 18.6.10 the APTS of the opposite parties inspected his premises and a site mahazer was prepared and found out unauthorized additional load for which a bill was issued amounting to Rs.2,67,068/-. On a petition made by the complainant, the bill was reduced to

Rs.1,02,939/-. It is the case of the complainant that he is not liable to pay even that amount. Alleging deficiency in service the complaint was filed praying for directions to the opposite parties to cancel the additional bill and also pay compensation and costs.

3. The opposite parties filed version wherein it was contended that the complainant had been permitted to use only 36 Kwatts and that on inspection on 18.6.10 it was found that the complainant had exceeded the sanctioned load by 13 kwatts. It was also stated that one phase of the energy meter was not recording the consumption and that the bill was issued for a period of one year for the escaped consumption and unauthorized additional load amounting to Rs.2,67,068/-. However, the opposite parties admitted that the bill was reduced to Rs.1,02,939/-.

4. The evidence adduced consisted of the oral testimony of the complainant as PW1 and Exts.P1 to P5 on the side of the complainant. The opposite party was examined as DW1 and Exts.R1 and R2 were marked on the side.

5. Heard both sides.

6. The learned counsel for the appellant/complainant vehemently argued before us that the site mahazer marked as Ext.P1/R1 cannot be relied on for the reason that the complainant has not signed in the site mahazer. It is also his case that the unauthorized additional load alleged to have been used by the complainant was only for some days before and charging penalty for a period of one year is unjustifiable. He has also advanced the contention that the meter was working properly and he was remitting the bills issued by the opposite parties in time. It is his further case that the opposite parties were visiting the premises of the complainant and were taking meter reading and if at all there was additional load in the connected premises they could have very well found out the unauthorized connected load and could have taken action thereon. He has also submitted before us that the bill issued by the opposite parties does not contain the details regarding the calculations made by the opposite parties. Thus, he canvassed for the position that the forum below ought to have allowed the complaint in toto.

7. On the other hand, the learned counsel for the respondents/opposite parties supported the findings and conclusions of the forum below. It is his very case that, the complaint does not have a case that there was no inspection on 18.6.10 and the operator of the unit had signed in the site mahazer, witnessing the inspection. It is also submitted by him that if there was unauthorized additional load, the opposite parties are empowered to charge for a period of one year at twice the rate of applicable as per the amended provision under Section 126 (5) of the Electricity Act. It is also argued by him that the complainant had not sought permission for installing the additional equipments thereby increasing the connected load to the premises. Thus, the learned counsel argued that the appeal is to be dismissed with compensatory costs.

8. On hearing both sides and also on perusing the records, we find that it is the admitted case of both parties that the complainant had a permitted load of 36 Kwts in his premises. It is also seen that as per the inspection by the APTS the connected load is 49 kwts. The complainant while deposing before the Forum as PW1 has admitted that after installing the new motors the connected load has been enhanced to 49 kwts. All the same, the complainant has a case that the said additional machines were purchased only on 3.6.10 and the opposite parties do not have a case that the machines were there in the premises, much earlier. We have perused Ext.P4. It is seen that the complainant has purchased the second hand machine from one Sathyan on 3.6.10. But it is to be noted that even if the machine is purchased only on 3.6.10 and installed there after he ought to have sought for the permission of the opposite parties before installing the same. It is also seen that the complainant has taken the effort to get the permission only after the inspection by the APTS on 18.6.10. It is further found that the opposite parties, while cross examining the complainant, did not raise the point that Ext.P4 was a concocted document or that the complainant installed the machines much earlier. In the said circumstances, we find that issuing the bill for one year appears to be unjustifiable. However, it is also to be found that the complainant ought to have obtained permission for installing the machines in his premises from the opposite parties which he has not done. Hence it is our considered view that the opposite parties are entitled to collect the charges for 6 months from the complainant and the opposite parties are directed to issue a fresh bill for a period of 6 months for

the unauthorized additional load and for the escaped consumption as noted by the opposite parties.

In the result, the appeal is allowed in part. Thereby the complaint is liable to pay charges for the unauthorized load and the escaped consumption for a period of 6 months instead of for one year as mentioned in the bill. The opposite parties/respondents are also directed to give installments to the complainant/appellant for the payment of the revised bill. In the facts and circumstances of the case, the parties are directed to suffer their respective costs through out.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com