

N.M. Subramanian Vs. Superintending Engineer Tneb Mettur Dam Salem District

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Court : Tamil Nadu State Consumer Disputes Redressal Commission SCDRC Chennai

Decided On : Oct-12-2009

Judge : Hon'Ble Thiru Justice M. Thanikachalam President Thiru Pon. Gunasekaran B.a.,B.L., Member - I

Appeal No. : F.A.NO.162 of 2006 (Against order in C.C.No.11/2005 on the file of the DCDRF, Namakkal)

Appellant : N.M. Subramanian

Respondent : Superintending Engineer Tneb Mettur Dam Salem District

Judgement :

M. THANIKACHALAM J, PRESIDENT

1. The unsuccessful complainant in OP.No.11/2005 on the file of District Forum, Namakkal, is the complainant.

2. The complainant/appellant approached the opposite parties on 30.7.2003, for service connection, to his newly constructed shops, for which he had paid Rs.100/- towards application fees. The opposite parties 3 and 4, inspected the building and informed that the connection will be given from the main distribution, and the complainant has to arrange for two posts in his agricultural land, and he has to

remove the coconut trees also. The complainant considering the long distance, as well as availability of shortest distribution from Kaliappanur SS-II, requested the opposite parties to give connection from there, which was not accepted, instead they have advised the complainant to come back with Rs.7000/-, for giving connection from Kaliappanur SS-II, for which the complainant is not willing.

3. The complainant again applied for a new connection on 17.12.2003, by paying a sum of Rs.100/-, even then the opposite parties demanded Rs.7000/-, to give service connection as prayed. Due to non-giving of the power connection, the complainant was put to untold mental agony, and therefore he has lodged a complaint also in the Vigilance and Anti Corruption Department, against opposite parties 3 and 4. Thereafter, the 2nd opposite party, directed the complainant to pay a sum of Rs.2400/-. After remitting the money, 2nd opposite party has given connection to the complainants shops, in the shortest route of Kaliappanur SS-II, distribution point. Because of the delay caused in giving service connection, the complainant sustained loss in terms of money, since he was unable to lease the premises for rent. The delay in giving service connection, amounts to deficiency in service, therefore the opposite parties should be directed to refund the application fee, for which connection was not given, as well as Rs.4 lakhs, towards loss of money, mental agony, in addition to cost.

4. In the written version, the opposite parties denying all the allegations leveled in the complaint, have stated that as per the procedure of the board, site was inspected, measured, estimate was prepared, and a notice has been issued to the complainant, asking him to pay Rs.11,255/-, that the complainant has not paid the amount as demanded by the opposite parties, resulting cancellation of the application dt.17.10.2003, that again a fresh application was given on 17.12.2003, asking service connection from Kaliappanur SS-II, that calculating the expenses, the complainant was requested to pay the excessive expenditure, as well to submit the consent letter to pay the cost of the expenditure to be incurred to effect service connection from Kaliappanur SS-II, that the complainant has not given the consent letter as demanded by the opposite parties, that when one Subramani applied for service connection, the estimate was evolved under boards cost, as the line proposed to be extended was not owned by him, that while evolving such

proposal, the supply to the commercial premises, owned by the complainant had become mere a service connection, without involving additional cost, that accordingly after payment, service connection was given to the complainant on 29.9.2004, and that the delay was due to failure on the part of the complainant to give consent letter to effect service connection, as per the estimate amount prepared by the opposite parties, for which he cannot accuse the opposite parties, as if there is deficiency in service, thereby prayed for the dismissal of the complaint.

5. The District Forum, analyzing the rival contentions of the parties, recorded findings, that the alleged demand of bribe was not made out, that only because of the reason, the complainant failed to pay the amount as demanded, there was delay in giving connection, which cannot be described as deficiency in service, etc. In view of the findings so recorded, the petition came to be dismissed on 7.12.2005, which is under challenge.

6. Heard the learned counsel appearing for either side as well as perused the written submission made, and documents relied on by them and the order of the District Forum.

7. The learned counsel for appellant submitted that the findings of the District Forum, that the delay was due to the act of the complainant, is incorrect and it failed to note that the delay is not only inordinate, but should have occurred for non-payment of the amount demanded as bribe, that the District Forum, failed to note when service connection has given immediately to one Subramani, the same kind of service was not extended to the applicant, when he had requested the service connection, paying the requisite fee. Thus contending, taking us to the order of the District Forum, as well as the documents, submission was made further, for allowing the appeal.

8. Per contra, it is the submission of the learned counsel for the opposite party / respondents, that as borne out by the records, the delay was only due to the conduct of the applicant, not only in not paying the requisite amount, but also failing to give consent, when excess expenditure is involved, and this being the position, it was correctly appreciated by the District Forum, and therefore allowing

the appeal, granting compensation, is undesirable.

9. Perusing the documents and submissions made by either side, we are also of the view, that the claim made by the complainant is not only baseless, but also vexatious in nature, that too, by a person who has failed to perform his duties and obligations, as demanded by the opposite parties, who had acted under the rules and regulations. In their acts, which is based upon regulations and based upon the estimate, we are unable to find any fault and the fault was only on the part of the complainant, and such a person is not entitled to any relief, could be seen from the admitted facts also.

10. On 30.7.2003, complainant applied for service connection, seeking service connection from Kaundipalayam. Immediately within 4 days or so, as admitted in para 2 of the complaint itself, the opposite parties 3 and 4 have inspected the area, and have advised the difficulties, such as involvement of cost, and despite the fact, as roved by the affidavit, the opposite parties sent a notice on 23.9.2003 to the complainant, asking him to pay a sum of Rs.11,255/-, to effect service connection, the complainant had not paid the amount, and therefore rightly also, the sanction, pursuant to the application dt.30.7.2003, was cancelled on 17.10.2003, in which we are unable to find any deficiency in service, or any malafide act of warranting to say that they have cancelled the sanction, because of the failure of non-payment of bribe amount, as falsely alleged in the complaint, which is also not proved as recorded by the District Forum. If really, there was demand of bribe, when the same was informed by the complainant to the Vigilance and Anti Corruption Department, they should have enquired and submitted a report, but it is not in this case. Therefore, we are constrained to hold, in order to screen the deficiency of the complainant, in not paying or depositing the amount as demanded under the notice dt.23.9.2003, an imaginative story was described by the complainant, that the opposite parties 3 and 4 have demanded bribe amount etc., which cannot be accepted. Since as per the application dt.30.7.2003, for the payment of Rs.100/- or so, service was rendered, not accepted by the complainant, then questioning refunding the amount does not arise for consideration.

11. The complainant has realized that, getting service connection from Koundipalayam, which involved heavy cost, then admittedly approached once again to the authorities concerned, by presenting an application on 17.12.2003, by paying a sum of Rs.100/-, seeking new connection from Kaliappanur SS-II distribution. As averred in the written version, it is also supported by the affidavit and further evidenced by document under Ex.B16, assessing the probable cause, including the excess expenditure, a notice was issued to the complainant to submit his consent letter, to pay the cost of expenditure to be incurred, to effect the service connection from Kaliappanur SS-II. It is not the case of the complainant, either in the complaint or in the affidavit, that immediately he has given his consent, expressing his willingness to pay the amount, whereas the opposite parties have failed to give service connection. As submitted, even we can say admittedly also, the complainant has not given the consent letter, and therefore service connection was not given immediately, pursuant to the application dt.17.12.2003. For this, only the complainant has to be accused, and to our mind, there is no deficiency in service on the part of the opposite parties. Had the complainant given his consent letter, expressing his willingness pursuant to the letter dt.18.3.2004, certainly the opposite parties would have given the connection as requested.

12. As seen from the written version and as submitted in the written argument also, one Mr. Subramani, applied for commercial service connection, to the opposite parties on 04.09.2004, for whom the supply has to be taken only from Kaliappanur- SSII, by running LT single phase 2 wire line for 3 spans underneath the existing HT 22 KV Mill feeder line. Because of this, an estimate was evolved under boards cost. It is the further submission of the opposite parties, while evolving such proposal the supply to the commercial premises owned by the complainant had become mere service connection one, without involving any additional cost, and accordingly and admittedly also the service connection to the complainant was effected on 29.9.2004, that too after the payment of Rs.2400/- on 10.9.2004 by the complainant. This cannot be a preference to Subramani, who had paid some amount, and that is why service connection was extended to him, when he applied on 4.9.2004. The opposite parties have reasonably explained, how the board has taken the decision, calculating the cost etc., thereby making

easy for the complainant also to get service connection, not involving any additional expenditure, as originally demanded. In this view, though there was some delay in giving connection to the complainant, the delay was only due to the non-compliance of the demand made by the opposite parties, by the complainant, for which only the complainant has to be blamed, not the opposite parties. The District Forum, considering all these facts and circumstances of the case, has rightly held that there is no deficiency in service, which deserves our acceptance.

13. For the foregoing reasons, as there is no merit in the appeal, is liable to be dismissed.

14. In the result, the appeal is dismissed with cost, confirming the order of the District Forum in OP.No.11/2005 dt.07.12.2005. The appellant /complainant is directed to pay a sum of Rs.1000/- towards cost of the appeal, to the respondent/ opposite parties.

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