

P.J. Eappen Vs. the Asst.Executive Engineer Water Works Sub Division

P.J. Eappen Vs. the Asst.Executive Engineer Water Works Sub Division

SooperKanoon Citation : sooperkanoon.com/1112010

Court : Kerala State Consumer Disputes Redressal Commission SCDRC
Thiruvananthapuram

Decided On : Jan-30-2008

Judge : Sri. M.V. Viswanathan: Judicial Member

Appeal No. : APPEAL.NO.113 of 04

Appellant : P.J. Eappen

Respondent : The Asst.Executive Engineer Water Works Sub Division

Judgement :

SRI. M.V. VISWANATHAN: JUDICIAL MEMBER

The above appeal is preferred from the order dated 8th January 2004 passed by CDRF, Ernakulam in OP.772/02 which was filed by the appellant herein as complainant against the respondent as opposite party seeking for cancellation of Ext.A1 arrear bill dated.30.6.02 issued by the opposite party/Kerala Water Authority. The case of the complainant was disputed by the opposite party/Kerala Water Authority and contended that the A1 arrear bill was issued on the basis of the meter reading taken. The Lower forum accepted the case of the respondent/opposite party to a greater extent and thereby the complaint in OP.772/02 was dismissed. Aggrieved by the said order, the present appeal is preferred by the complainant therein.

2. We heard the counsel for the appellant/complainant and respondent/opposite party. The learned counsel for the appellant argued this appeal on the basis of the grounds urged in the memorandum of the present appeal. He also submitted a calculation statement on this day (30.1.2008) and canvassed for the position that the total arrears of water charges due to the respondent/opposite party up to July 2002 would come to Rs.47340.35/- only. To substantiate the aforesaid case he also relied on the meter readings recorded in B2 ledger produced by the opposite party in the aforesaid OP.772/02. Thus, the appellant/complainant requested to set aside the impugned order passed by the lower forum and to pass an order according to the present calculation statement dated.30th January 2008 filed by the appellant. On the other hand, the respondent/opposite party supported the impugned order passed by the Lower forum. At the same time, the learned counsel for the respondent/opposite party readily conceded the facts and figures narrated in the calculation statement submitted by the counsel for the appellant.

3. The points that arise for consideration are:-

1. Whether the respondent/opposite party (Kerala Water Authority) can be justified in issuing A1 arrear bill dated.30.6.02 for Rs.116752/-?

2. Is there any sustainable ground to interfere with the impugned order dated.8.1.2004 passed by CDRF, Ernakulam in OP.772/02?

4. POINTS 1 and 2:-

There is no dispute that the appellant/complainant is a consumer under the respondent/opposite party (Kerala Water Authority) and that the complainant as consumer with C.No.2343/N was provided with a provisional invoice card at the time of giving water connection and that as per the aforesaid PIC monthly consumption was fixed at 50 KLS with the monthly rate of Rs.199/-. Admittedly, there after revised PIC was issued. But the dispute involved in the present OP.772/02 is regarding the A1 arrear bill dated.30.6.02 issued by the opposite party claiming arrears up to July 2002 at Rs.116752/-. It is to be noted that the respondent/opposite party/Asst.Executive Engineer, Kerala Water Authority had also filed calculation statement before the Lower forum and the same has been

marked as Ext.B1. As per Ext.B1 calculation statement the arrears due to Kerala Water Authority up to March 1999 is shown as Rs.9856/-. But, in fact the appellant/complainant admitted the arrears at Rs.9861/- and the same has been admitted in the calculation statement submitted on this day (30.1.2008) by the appellants counsel. Thus, B1 calculation statement submitted by the respondent/opposite party and the present calculation statement submitted by the appellant/complainant would make it crystal clear that there is no substantial dispute regarding the arrears due to Kerala water Authority up to March 1999. So, the arrears up to March 1999 are fixed at Rs.9861/- as admitted in the calculation statement dated.30.1.08.

5. The next dispute is regarding the arrears of water charges for the period from July 1999 to July 2002. According to the appellant/complainant the arrears for the aforesaid period would come up Rs.31986.35/-. To substantiate the aforesaid case the learned counsel for the appellant has drawn the attention of this commission to the meter readings recorded in B2 Consumer ledger produced from the side of the opposite party/Kerala water Authority. The aforesaid meter readings would show that the meter readings on 28.7.99 was 3796 KLS. The next meter reading was taken on 1.1.2001 with the meter reading as 6895. If that be so, the total consumption of water charges for the period between 28.7.99 and 1.11.01 would come to 3099 KLS ($6895 - 3796 = 3099$). The aforesaid consumption period would make it clear that the average consumption of water during that period was only 110.6 KLS. If we go by the subsequent meter readings recorded in B2 it can be seen that the subsequent consumption was at 166 KLS, 90 KLS, 64 KLS and 142 KLS. So, the average consumption, for the purpose of calculation and settlement of the dispute among the parties can be taken as 110 KLS. The water charge for 110 KL would come to Rs.1400/-. On the basis of the aforesaid calculation we would get the arrears of water charges for the period July 1999 to June 2002 at Rs.31986.35/-. So, the amount shown as arrears of water charges for the period from July 99 to June 2002 can be accepted as true and correct. This commission is pleased to hold that the arrears of water charges due to Kerala Water Authority from the appellant/complainant for the period from July 99 to June 2002 is Rs.31986.35.

6. The next disputed period is from April 99 to June 99. The appellant/complainant is ready to pay the arrears of water charges at the rate of Rs.1831/- for the aforesaid 3 months. The respondent/opposite party has also conceded to the aforesaid figure arrived at by the appellant/complainant. Hence the arrears of water charges due to the respondent/opposite party (Kerala water Authority) for the period from April 99 to June 99 is fixed at Rs.5493/-. Thereby, the total amount due to the respondent/opposite party (Kerala Water Authority) towards the arrears of water charges for the period up to July 2002 is fixed at Rs.47340.35/-. The aforesaid calculation and figure arrived at Rs.47340.35/- would make it crystal clear that the respondent/opposite party cannot be justified in issuing A1 arrear bill for a sum of Rs.116752/-. So, the lower forum ought to have cancelled A1 arrear bill dated.30.6.02 issued by the respondent/opposite party (Kerala Water Authority. This commission is pleased to cancel A1 arrear bill dated.30.6.02 issued by the opposite party Kerala Water Authority. If that be so, the impugned order passed by the lower forum is to be set aside. Hence, this Commission is pleased to set aside the impugned order passed by the lower forum in OP.772/02. These points are answered accordingly.

In the result, the appeal is disposed of as indicated above. The impugned order passed by CDRF, Ernakulam in OP.772/02 is set aside. Appellant/complainant (consumer) is directed to pay the arrears sum of Rs.47340.35/- towards water charges due to Kerala Water Authority up to July 2002. The respondent/opposite party/Kerala Water Authority will be at liberty to issue arrear bills for the period from July 2002 onwards as per the meter readings recorded by the meter reader of the opposite party/Kerala Water Authority. As far as the present appeal is concerned, the parties are directed to suffer their respective costs. The calculation statement filed by the appellant/complainant on this day is recorded and the same shall form part of the records.

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