

(1993) 09 NCDRC CK 0038

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

H.S.E.B.

APPELLANT

Vs

Sham Sunder

RESPONDENT

Date of Decision: Sept. 28, 1993

Citation: 1993 3 CPJ 1596

Hon'ble Judges: S.S.Sandhwalia , Basanti Devi , S.Kulwant Singh J.

Final Decision: Appeal dismissed with costs

Judgement

1. WHETHER the instruction No. 179 of the Sales Manual of the Haryana State Electricity Board warrants the transfer of the arrears of one account holder to that of a different account holder? This is the primal question in the present appeal.

2. SHAM Sunder is admittedly a consumer of electric energy having account No. NN-17/0140. He was primarily aggrieved by a bill of electricity charges raised against him wherein a sum of Rs. 9275/- had been added. His firm stand was that this amount did not relate to him at all and it was unnecessarily levied just to harass him. The respondent stated in the complaint that the disputed amount was the arrears of electricity charges due from Haryana Hosiery Centre, Naraingarh having an account No. NN-18/32. It was the case that this amount was debited to the respondent's bill because Madho Ram holder of the said account number was a son of the complainant and the said Hosiery Centre was jointly owned by the father and the son.

The parties led evidence in support of their case. The respondent-consumer stepped into the witness box and deposed on oath that he had nothing whatsoever to do

with the Haryana Hosiery Centre, Naraingarh having account No. NN-18/32. He went further on to say that he was neither living together with his son Madho Ram nor had any joint business with him.

On behalf of the appellant-board the relevant record was summoned and statement of Sawaran Singh C.A. was recorded. He deposed that complainant's account number was NN-17/0140 whilst his son Madho Ram and Haryana Hosiery Centre had a different account No. NN-18/32. It was conceded that the disputed amount was due from Madho Ram, who had failed to pay the same and fallen in arrears.

3. THE District Forum adverted to instruction No. 179 of the Sales Manual which was sheetanchor of the appellant-board,, and concluded that the same did not empower the appellant to debit the amount of one consumer to the amount of a different consumer. THE complaint was consequently allowed. Hence the present appeal by the Haryana State Electricity Board.

Mr. Kashyap learned Counsel for the appellant clutched at a straw by contending that instruction No. 179 of the Sales Manual entitled the Board to transfer the dues of the separate account of the respondent's son on to him. Submission was that in the matter of recovery of arrears from a defaulting consumer, the board had a wide-ranging power to recover the same from close relations even though they hold altogether separate electricity connection.

4. SINCE the whole controversy here is focused on instruction No. 179 it is necessary to advert to the same. The said instruction is a some-what long and rambling one having as many as ten paras. A board reading of all of them would indeed indicate the solicitude with which the Board views, the interest of its consumers and provides all other measures for recovery of arrears before resorting to the drastic remedy of dis-connection. What is however evident is that such dis-connection which is to be done after the numerous conditions and formalities to be completed before doing so, is related only to the case of the particular account holder alone. To our mind, it does not visualise any action against an altogether independent electricity connection. However, since the matter has cropped up it is opt to deal with it with some detail and the relevant part of instruction No. 179 namely para 4 is reproduced as under:-

"The Sub-Divisional Officer, should go on pressing (say by issuing weekly reminders" to be delivered through peons or if necessary, to be sent by registered post and by personal demands through bona fide representatives of the Board) the defaulting consumer for payment of the outstanding dues of the Board. If after the expiry of one month the consumer continues to default, the sum of the security deposit should be re-appropriated towards the amount of arrears. In case the security deposit is in the form of bonds the transfer of the bonds in favour of the Board will be affected by completing the transfer deed, affixing stamps thereon and getting the transfer registered and endorsed on the Bonds by the Registrar. In that event the Bonds should be sent to the CAO HSEB alongwith the transfer deed for necessary action in his office. The balance dues, if any, should be transferred to any other connection which may be held in the name of the same consumer. The other connection/connections may likewise be disconnected after observing the necessary formalities."

It would be manifest from the aforesaid underlined part of the para that at the highest it authorises is the transfer of arrears to any other connection which may be held in the name of the same consumer. This cannot possibly be read as a transfer of arrears held in the name of an altogether different consumer-account holder. To us the question seems to be so plain as not to require any further elaboration.

However to clinch the matter it is evident that the issue is equally concluded by way of analogy by the recent decision of this Commission in First Appeal No. 315 of 1993 Mr. Gabdu Ram of Gurgaon v. Haryana State Electricity Board and Another. Therein also the similar question was posed namely whether the arrears for electricity charges due from one consumer can be recovered from any one of his co-sharers. After an in-depth consideration and referring to instructions No. 35 and 182 of the Sales Manual it was concluded as under:-

"In the light of the above, the answer to the question posed at the out-set is rendered in the negative. It is held that the arrears for electricity charges from one consumer cannot be recovered from his co-sharer having a, separate electricity connection."

5. IT is plain that the aforesaid ratio applies mutatis-mutandis to the present case as well. As we have already indicated instruction No. 179 also does not at all warrant the levy of electricity charges from one independent consumer on to another.

6. IN the light of the aforesaid discussion, the answer to the question posed at the out-set is rendered in the negative. It is held that instruction No. 179 of the Sales Manual of the Haryana State Electricity Board does not warrant the transfer of the arrears of one account holder to that of a different account holder.

Once the aforesaid conclusion is arrived at, it is obvious that the present appeal must fail and is hereby dismissed with costs which are assessed at a sum of Rs. 500/- only. Appeal dismissed with costs.