
(2002) 04 NCDRC CK 0032

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

JAYA SHREE
INSULATORS

APPELLANT

Vs

West Bengal State
Electricity Board

RESPONDENT

Date of Decision: April 19, 2002

Citation: 2002 2 CPR 124 : 2002 3 CLT 489 : 2002 3 CPJ 67

Hon'ble Judges: D.P.Wadhwa , Rajyalakshmi Rao , B.K.Taimni J.

Final Decision: Complaint dismissed

Judgement

1. IN this complaint against the opposite party-West Bengal State Electricity Board following reliefs have been claimed :

"Your petitioner therefoe most humbly prays that the learned Commission may not (be) graciously be pleased to pass the following orders : (a) The respondent be directed to make payment of damages assessed at Rs. 44,76,60.000/- as pleaded in paragraph 9 hereinabove. (b) Alternatively an inquiry into loss and damages suffered by your petitioner, and upon such inquiry, direction be given to the respondent to make payment of such sum as may be found due and payable by the respondent Board to your petitioner. (c) INterest @ 24% p.a. on the said sum of Rs. 44,76,60,000/- or such other sum as may be found due and payable by the said respondent Board to the petitioner for the loss and damages. (d) The respondent be directed to ensure that there is no interruption in power supply and fluctuation of voltage are affected. (e) Respondent be directed to ensure that the deficiency in service does not affect. (f) Costs of and incidental to this application be borne and paid by the respondent Board. (g) Such further and/or other order or orders be made and/or direction or directions be given as this learned Commission may deem fit and proper".

2. COMPLAINT is in initial stage. So far written version has not been filed by the respondent-opposite party.

We asked the learned Counsel for the complainant as to how the figure of damages of over Rs. 44.00 crores has been arrived at and how he is going to prove the alleged loss suffered by the complainant. He referred to (i) para 3 of the complaint where it is mentioned that there was expenditure of about Rs. 25.00 lakhs for providing dedicated 33 KV line and 33 KV S/S exclusively for the unit of the complainant; (ii) para 4 where complainant gave a bank guarantee of Rs. 18,60,500/-; and (iii) para 5-it is mentioned that there was production loss aggregating to a sum of Rs. 22,38,30,000/-.

All this would show that a great deal of evidence will be required both oral and documentary to prove such a huge loss as claimed by the complainant. It was submitted by learned Counsel for the opposite party that interpretation of agreement for the supply of electrical energy at high voltage will have to be gone into. In our view it is not a case which can be decided in our summary jurisdiction. Supreme Court in the case of Synco Industries v. State Bank of Bikaner & Jaipur and Others, observed that where complicated questions of law and facts are involved Forum under the Consumer Protection Act may not be a proper Forum to dispose of such a case in summary fashion. It was also observed that a Civil Court would be right place to decide the issue involved in that case and it went further to add that the complainant did not file the complaint before the Civil Court to start with because, before Consumer Forum, any figure in damages can be claimed without having to pay Court-fees and that this, in that sense, was an abuse of the process of the Consumer Forum. Accordingly, this complaint is dismissed with the liberty to the complainant to approach Civil Court or any other Forum for the reliefs claimed.

3. WE may also notice that complaint was filed on 20.10.1997. Complainant can take advantage of provision of Section 14 of the Limitation Act. In this connection, we refer a decision of the Supreme Court in the case of Laxmi Engineering Works v. PSG Industrial Institute, II (1995) CPJ 1 (SC)=(1995) 3 SCC 583, where while dismissing the appeal the Court observed as under :

"If the appellant chooses to file a suit for the relief claimed in these proceedings, he can do so according to law and in such a case he can claim the benefit of Section 14 of the

Limitation Act to exclude the period spent in prosecuting the proceedings under the Consumer Protection Act, while computing the period of limitation prescribed for such a suit."

Complaint dismissed.