

IN THE COURT OF MR. MALIK PEER MUHAMMAD.
DISTRICT & SESSIONS JUDGE /PRESIDING OFFICER, DISTRICT
CONSUMER COURT,
SIALKOT/NAROWAL.

Case No. 84 /2008

Date of Institution: 05-09-2008.

Date of Decision: 17-11-2009.

Liaquat Ali S/O Muhammad Siddique..... by caste
R/O Tehsil and District Sialkot.
(Consumer/subscriber/Complainant)

Versus

SE, Wapda. (Service Provider/Respondent)

ORDER:

According to the narrow compass facts, gleaned in this complaint, complainant father Muhammad Siddique applies to the respondent for sanction of domestic electric connection. Wapda authority after fulfilling or entire pre-requisite sanctioned electric connection and directed to the father of the complainant for deposit of the electric dues in shape of the Demand Notice. His father deposited the demand notice upon which Wapda authority installed electric connection at his residence. After installation of the electric connection father of the complainant and later on after the death of the complainant father, being legal heir deposited all the electric dues including bills to the Wapda authority. It is further averred in the brought of the complaint that one another demand notice Rs.24,998/- is issued against the name of complainant father, which is illegal. Void abnitiio and against the neglijjustice. It is requested to the court that the above said illegal demand notice issued by the

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respondent after deposit, be declared illegal, further respondents be burdened for damages, which are caused due to the illegal demand notice issued by them.

Complaint is opposed by the respondent through there written reply, it is submitted in the reply that complainant has no cause of action as he is not the consumer of the respondent, it is further high lighted in the reply that one or team of respondent find out that complainant father deposited a less recovery of capital cost Rs.24,998/-, for which complainant and his father are bound to deposit the same.

After completing of the pleading of the parties, both the parties were directed to furnish their list of witnesses within seven days. In order to discharge onus probandy Liaquat Ali himself appeared as AW1, he produced affidavits of AW2 Tariq Bashir, record keeper GPO, AW3 Muhammad Akbar Postman, AW4 Gulnawaz Postman. On the documentary side complainant produced postal of receipt Ex-P1 to Ex-A4 postal receipt Ex-A5 to Ex-A8. On the other hand Ashiq Bhatti SDO, Wapda as appeared RW1 and closed his verbal and documentary evidence on 22-102-2009.

Arguments heard.

Record closed.

The first disputed question arising between the parties regarding that present complainant has a cause of action and falls under the definition of the consumer. Through the voice of the record it is intimated to remain t6hat electric connection got sanctioned at the name of Muhammad Siddique father of the present complainant. The said Muhammad Siddique is demised away and later on present complainant being legal hire of the deceased stepped into his shoes. The Wapda authority is not

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ready to accept the complainant as a consumer but the consumer is obstinate that after the death of the father he is a consumer of and falls under the relevant of the law. I if given ingenious thoughts over the said preposition it is made crystal clear that after the death of the complainant father the complainant has been using electricity supply through the connection and has been paying the bills. Since he is utilizing the supply of the electricity and paying the bills, he has to be taken to be a beneficiary and electric supply and is supposed to as hired the service of the electricity /respondent. From the reading of the definition given in the statute, it is evident that if a present hires or

avails of any service for a consideration which has been promised to be pay, he becomes consumer. The said view is already adopted in “Harish Kumar VS Chief Engineer”, Madiya Perdesh in 2 CPR 320 (1993) and further in ICPJ and 299 Madiya Perdesh VS Ram Ooter Sharma (1993) 3CPR 595. The word service defined into the statute which means service of any description, which is made available to potential users and includes the provision of facilities in connection with supply of electric or other energy. Thus, complainants are potential users of electricity, willing to pay installation charges and hiring charging of electricity and hence, are consumer has define under the Act. In the light of above said discussion I legally hold that complainant being legal hire of the deceased rightly choiced the form of this court being consumer under the respondent.

The burning question before this court that if the demand notice Rs.24,998/- allegedly the less recovery of the capital cost as a legal one entity or it is betray issued by the Wapda authority to the complainant for the deposit the same in this record. It will be legal requirement to solve this question, to

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resort the testimony of the parties Liaquat Ali himself appear in the witness box as AW1 and directly attacked over the said disputed demand notice. He deposed in his statement examination chief affidavits sworned by him that his father got sanctions the electric connection, Wapda authority after following all the legal process issue the demand notice to the complainant father, who deposited in the bank same within the stipulated time. And thereafter, respondent installed electric connection in his house. In separate of his statement complainant produced Tariq Bashir record keeper GPO AW2, Muhammad Akbar Postman, Shahabpura AW3 as for to prove the legal notice through postal receipt. He further produce Gul Nawaz Postman AW4, who proved that he delivered the notice though Badar Munir Butt. The above said deposition of the AW is objected by the Ashiq Ali Bhatti SDO, Wapda who put up his appearance as RW1. In his statement he emphasized that disputed amount pertain about the less recovery of capital cost, complainant is bound to deposit the same in the bank. This RW1 made with the lengthy cross examination. He candidly admitted that instant connection was installed at the

residence of the complainant for the year 2006. He further admitted that when any new consumer deposited all the electric dues then later on electric connection is installed at his residential place. In the remaining part of the cross examination he admitted that present complainant is a consumer with the copy of demand notice issued in his favour of complainant shown RW1. In his further cross examination he admitted that second demand notice was issued for the year, 2008 when the original connection was installed at the house of the complainant for the year 2006. After having one legal glance over the pleadings and statement got

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recorded by the both parties, it is made crystal clear that Wapda authority before sanctioning of any electric connection whether residential or commercial, it is one skilled representative visits the site where the electric connection intended to be installed, he measure distance between pole and home, he determines the cost of wire, pole and other apparatus which are required to be installed for the said connection purpose. After completing formality rough side sketch is to be prepared and later on demand notice is issued for the deposit of the connection cost with the signature of the SDO. The SDO, Wapda is an educated and skilled person. He signed the demand notice with the full responsibility of dues are being deposited by the consumer. It is astonishing for him that said electric connection was sanctioned in the year of 2006 and the second demand notice was issued for the year 2008 meaning thereby, after two years. It was the incumbent upon the respondent to check less recovery at the time of sanction of the electric connection and later on after the two years, when the consumer was regularly depositing the electric bill and expressed no reluctance for to deposit the bill are showed or any contumacious behavior to the respondent. Further more there is no evidence of the record that if some disciplinary action is taken against the delinquent Wapda officer, who visited the site and to prepared the rough sketch and prices of the install wire and pole etc. the Wapda authority was required to issue the notice to the concerned Wapda person and asked him to get deposit recovery amount or to take a strict disciplinary action against him. The Wapda authority definitely showed his lenient

view and kept the said delinquent with love and affection therefore, I hold the demand notice issued by the

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respondent for the less recovery Rs.24,998/- is illegal, hence, I set aside it. Complaint is accordingly accepted.

Announced:
17-11-2009.

Presiding Officer,
District Consumer Court
Sialkot/Narowal.