

District Sialkot

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

Case No. 22 /2009

Date of Institution: 31-01-2009.

Date of Decision: 18-11-2009.

*Muhammad Arshad S/O Muhammad Latif R/O Haji
Abad, Gohad-Pur, Tehsil & District Sialkot.*

(Consumer/subscriber/Complainant)

Versus

1. *Gujranwala Electric Power Company.*
2. *Superintendent Engineer, Gujranwala Electric Power Company.*
3. *Sub-Divisional Engineer Gujranwala Electric Power Company, (Sub-Division Gohad-Pur), Defense Road, Sialkot.*

(Service Provider/Respondent)

ORDER.

According to the precise facts of this complaint, complainant father got sanctioned electric connection on his name for his residence. Who have been died, now the complainant is regular consumer under the respondent. Prior to the sanction of the electric connection in the month of February, 2004 he deposited all the dues and price of the utensils connected by the Wapda authority at the time of installment of electric connection. Now again respondent

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Muhammad Arshad VS GEPCO etc.

(2)

has issued a fresh demand notice No.89 dated 16-07-2008 for the Rs.6,860/- the said demand notice is issued illegally, arbitrary and

without any justification, he visited time and again in the office of the respondent for to withdraw this illegal demand notice. Respondent procrastinated the matter from one pretext to another and ultimately he refused to withdraw this demand notice. Respondent has also threatened to the complainant, if he fail to deposit this demand notice, his electric connection shall be disconnected forthwith without any further notice. He issued a legal notice to the respondent regarding his illegal demand notice and intimated him, that he is going to filing complaint under section 25 Punjab Consumer Act, 2005 in this consumer court. It is requested that the said demand notice be declared illegal vide ab-initio and in affective upon the rights of the complainant. Further respondent be directed to not disconnect his electric connection.

This complaint is resisted through the written reply filed by the respondent. It is averred in the written reply that complaint is not filed with the clean hand but it is liable for rejection under order 7 rule 11 CPC, it is further objected that previously complainant joined hands with the employee of the Wapda authority and got less estimate for his connection. Hundred meter wire was required but
(Contd....3)

Muhammad Arshad VS GEPCO etc.
(3)

complainant with the connivance of the employees of the Wapda got prepared assessment for 51 yard wire. The demand notice for further 49 yard wire Rs.6,860/- is justified and accordingly under the rule of the Wapda.

After compleating the pleadings. Both parties were directed to furnish their respective list of witnesses within the stipulated time determined by this court. In order to prove complaint Muhammad

Arshad himself appeared in the court as AW1 and closed his oral documentary evidence. On the other hand Tariq Ali SDO, Sub-Division Gohdpur appeared as RW1. No other RW is produced as for the corroboration of his statement. On the documentary said he produced the copy of demand notice Rs.6,860/- which is Ex-RW1/1 and closed the documentary evidence.

Arguments heard.

Record Closed.

The first proposition before the court is that if the complainant is a consumer. In the reply of this arguments, I explored into the contents of the complaint and statement of the complainant. Complainant got sanctioned the domestic electric connection in the year of 2006. After sanctioning of this connection he consumed the electricity, deposited the regular bills into the bank. There is no objection on

(Contd....4)

Muhammad Arshad VS GEPCO etc.

(4)

the part of the respondent, the complainant is not a regular consumer under the respondent. Complainant hires and avails the services of respondent for consideration, for which he has promised to be pay. Further more in view of the word “service has been defined in consumer protection act 2005 which is made available to the potential user and includes the provision of facilities in connection with supply of electrical or other energy, hence, complainant falls within the definition of the consumer as provided in the statute.

The next question before the court is if the second demand notice worth Rs.6,860/- is rightly issued by the respondent to the complainant for its deposit. To answer this question I gone through the record and explored into the evidence furnish by the both parties.

Respondent Tariq Ali SDO, put up his appearance in the witness box and got record his statement that the first demand notice issued in the year of 2003 is less in payment. The audit team of the Wapda visited the place of connection where he find out that 49 meter wire was less in assessment, due to which the department suffered Rs.6,860/-. I have consider the stance of the complainant and respondent and find out that respondent got sanctioned electric connection on the name of Muhammad Siddique S/O Muhammad Sharif but the Gepco has issued a fresh demand notice on 21-07-2009 (Contd....5)

Muhammad Arshad VS GEPCO etc.
(5)

worth Rs.6,860/-, meaning thereby that the second demand notice is issued after six years of the electric connection. It is a case of the respondent that complainant joined hand with the employee of the Wapda and got a less assessment for 49 meters wire. I am of the legal view that the Wapda employee who visited the place of connection, prepared the assessment, sight plan for connection and thereafter, completed assessment price for the use of wire etc and after completing this formality the demand notice was further countersigned by SDO and thereafter it was asked to the complainant for to deposit the same in the bank. There is no evidence on the record that if the Gepco take any disciplinary action against the employee who visited the place of occurrence and prepared the assessment amount. The Wapda authority was legally bound to take a legal action against the said delinquent employee or to ask him to pay the default amount which is suffered by the Wapda authority for his illegal act. It appear from the record that service of the Wapda remained defective hence, complainant could not be penalized for own default of the Wapda department. In case the assessment was

prepared by the hand of complainant then the Wapda authority was justified to issue the fresh demand notice after six years when it was bought in its notice regarding less assessments hence, I set aside the demand

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Muhammad Arshad VS GEPCO etc.

(6)

notice which is illegal arbitrary vide ab-initio. Complainant is not bound to deposit the same nor it is binding upon him hence, complainant is accepted accordingly.

Announced:
18-11-2009.

Presiding Officer,
District Consumer Court
Sialkot/Narowal.

C E R T I F I C A T E

Certified that this order contains six pages and each of pages is dictated, corrected and signed by me.

Announced:
18-11-2009.

Presiding Officer,
District Consumer Court
Sialkot/Narowal.