

District Sialkot

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

Case No. 20 /2009

Date of Institution: 31-01-2009.

Date of Decision: 18-11-2009.

Muhammad Rafique S/O Muhammad Sharif R/O Kore-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.

Instant complaint under section 25 Punjab Consumer Protection Act, 2005 reveals facts, that in the month of August, 2003, complainant got sanctioned electric connection at his residential house. Since after sanction of this electric connection Wapda authority issued him regular bills and he deposited the same within the stipulated time narrated into the bills. It is further narrated in the body of the complaint (Contd....2)

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that fresh demand notice issued dated 16-07-2008 worth Rs.10,600/- in which it is directed to the complainant for to deposit this in the account of Wapda. On the interrogation of the complainant respondent disclosed that this fresh demand notice is regarding less assessment at the time of connection. Complainant asked to the respondent that he has already deposited all the Wapda dues at the time of electric connection and nothing is payable after five years of the connection. The respondent is adamant to disconnect his connection in case of non deposit of the fresh demand notice. It is requested to the court that fresh demand notice be declared illegal vide ab-initio and further compensation Rs.200,000/- be awarded to the complainant for his mental torture.

The application is resisted through written the reply filed by the Wapda authority, it is averred in the written reply that complainant has not filed instant complainant with his clean hands, it is liable for rejection under order 7 rule 11 CPC, the demand notice is rightly issued according to the Wapda rules, that the demand notice is regarding the less deposit of the assessment, as 110 yard wire was required for to install the electric connection but complainant having in (Contd....3)

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league with Wapda employee fictitiously deposited the price for 40 yards, the Wapda authority suffered for the price of 70 yards. It is further objected in the reply that one audit party visited the office who checked the record and find out that Rs.10,600/- is less deposited by the complainant and the same amount required to be recovered from him.

After completing the pleading of the parties. Both the parties were directed to produce their respective list of witnesses within seven days. Muhammad Rafique put up his appearance as AW1 no other oral statement is got recorded by him as for to corroborate his statement on the documentary side he produced copy of the statement as EX-AW1, copy of the legal notice EX-AW2, copy of the postal receipt EX-AW3 and post acknowledgement EX-AW4 and closed his documentary evidence. On the other hand Tariq Ali SDO, Sub Division, Gohad-Pur, Sialkot as a sole on the document side he produced a photo copy of the report of the audit report as RW1. A Letter regarding capital cost estimate RW2 and closed his documentary evidence.

Arguments heard.

Record perused.

The first question before the court is that if (Contd....4)

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the complainant is the consumer or outs of jurisdiction of this court. Respondent has not objected upon this core issue, further debate upon this issue is not advisable.

The next question before the court is that if the demand notice EX-AW1 worth Rs.10,400/- is a legal one and complainant is bound to deposit the same. To answer this question I explored into the contents of the complaint and statement got recorded by the both parties. It is an admitted fact that electric connection was got sanctioned on the name of Muhammad Rafique complainant in August, 2003 whereas, EX-AW1 demand notice is issued on 16-07-2008 meaning thereby it is issued after laps of five years.

Complainant himself appeared in the witness box and narrated that he deposited all the electric dues mentioned into the demand notice of the respondent and thereafter electric connection was installed at his residence. He visited the office of the respondent for to withdraw this illegal demand notice but the respondent put his deaf ear on his genuine request. He is not legally bound to deposit the same. Similarly on the other hand Tariq Ali, ADO, Sub Division Gohad-Pur appeared in the witness box as RW1. In his examination chief he deposed that Wapda authority issued first demand notice (Contd....5)

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(5)

worth Rs.3,200/- for the normal estimate regarding 40 meter wire whereas the distance of the house of the complainant is more than this estimate. Wapda authority after learning its mistake issue a fresh demand notice worth Rs.10,600/- and rightly asked to the complainant for to deposit the same. This RW met with the cross examination. In his cross examination he candidly admitted, when the consumer applies for the electric connection, then Line Superintendent visits at the site for estimation. According to the statement records of the RW1 Nadeem Iqbal Line Superintendent went at the site and thereafter upon his report and recommendation, first demand notice was issued to the complainant. In his further bit of the cross examination this RW again admitted that consumer has no concerned with the estimate which was previously prepared by the Wapda employee. In the remaining cross examination RW1 admitted that distance between the house and pole is about 110 meter whereas the connection is installed from the nearest electric wire which is about five meter. It is the own admission of the responsible officer of

the Wapda that only five meter wire is installed for the electric connection of the complainant. In case the five meter wire is installed then the complainant rightly deposited the demand notice which was
(Contd....6)

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(6)

initially issued at the time of connection. After detailed discussion, I judicially affirm that Wapda authority failed to prove any legal justification regarding second demand notice in order to prove the demand notice, the person who secondly visited the site, is not produced into the witness box. Simple verbal assertion of the Wapda is not sufficient. There is no evidence on the record that if some disciplinary action is taken against Nadeem Iqbal Line Superintendent for his fraudulent, less assessment. In my judicial view, it was the Wapda employee who was responsible for to make the wrong assessment and not the consumer. Therefore, consumer could not be penalized for to deposit the fresh demand notice after about five years of the installation of the electric connection, hence, this complaint is accepted and impugned demand notice is set aside. There is no order as to cost. File be consigned to the record room after its compilation.

Announced:
18-11-2009.

Presiding Officer,
District Consumer Court
Sialkot/Narowal.

CERTIFICATE

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.