

IN THE COURT OF MIRZA JAWAD A: BAIG,
DISTRICT & SESSIONS JUDGE,
PRESIDING OFFICER, DISTRICT CONSUMER COURT,
DERA GHAZI KHAN.

(PHONE: PTCL: 0642474100. FAX: 0642470496).

Mubarik Mai versus S.E MEPCO & 3 others

Complaint / Case No: 1682 / 385 / 11.
Date of Institution: 14-09-2011.
Date of Decision: 31-01-2012.

COMPLAINT ABOUT FAULTY SERVICES

ORDER:

Claimant is represented by Mian Mohammad Amir Daha (late), Dil Nawaz Khan Tareen Advocate (absent), Syed Moaviya Ahmad Ali Bukhari Advocate (present) while the defendants are being represented by the litigation clerk of Shah Saddar Din sub-division of MEPCO.

1. The case is at the stage of the arguments which have been heard and file has been perused in the light of the arguments as such I proceed to discuss and dispose off the complaint in accordance with the findings in the following paragraphs.

2. Briefly stated the grievance of the claimant is to the effect that she is the consumer of electricity under reference No.09-15226-0537900-R and aggrieved by the disputed bill containing disputed charges being unjustified and liable to be cancelled because the reading on the meter was 16238 while it was shown as 17840 in the bill. She has requested for cancellation of the disputed charges of 1602 excess units and stay against disconnection.

3. The defendants have contested the complaint by filing their joint written statement through SDO (Op) with the assertion that the meter is defective position dead sticking and charged average units in 07 to 09/2011 as 365, 438, & 438 units according to connected load.

4. It is pertinent to note that although evidence is necessary to be recorded under S.30 of PCP Act 2005 for disposal of the complaints by the Consumer Courts but since the procedural laws known as the Code of Civil Procedure, 1908; the Code of Criminal Procedure, 1898; the Qanun-e-Shahadat Order, 1984, the Bankers' Books Evidence Act, 1891 are not strictly applicable to the proceedings of the Consumer Courts, as such the propriety demands that the regular evidence should not be recorded in such cases where the points for determination are mostly based on the copies of the admitted documents available in the file of the complaint or admitted in the pleadings just like the present case.

5. It is proper to be observed that the ELECTRICITY is a PRODUCT

according to the definition provided in the Sale of Goods Act, 1930 and the said definition has been made applicable on the cases under PCP Act, 2005 by S.2 (j) of the latter Act. It is also observed that the AUTHORITY providing the ELECTRICITY as a product comes within the definition of the MANUFACTURER under S.2 (h) as such the AUTHORITY is obliged to fulfill all the responsibilities of a MANUFACTURER of the product under S.4 to 12 & 18 to 20 being supplied in dual capacity of the MANUFACTURER along with responsibilities of the SERVICE PROVIDER under S.13 to 17 of PCP Act, 2005. The responsibilities of the defendants are therefore dual as MANUFACTURERS as well as SERVICE PROVIDERS. The expectation of the public about better services of the MEPCO is therefore genuine and enforceable under the law.

6. It is observed that although the requirement of S.26(6) of the Electricity Act 1910 is to the effect that the matter is to be referred to the Electric Inspector by either party if the dispute arises as to whether the meter is or is not correct but a very useful policy is being adopted by the defendants for the redress of the genuine grievances of the consumers about providing the services of the Standing Review Committee therefore it is proper to refer the dispute to the local Standing Review Committee before sending the dispute to the remote office of the Electric Inspector in such cases so as to consider about reduction of the average units, if so permissible by rules and regulations before forcing the claimant to seek her redress from the Electric Inspector or Civil Court.

7. However, it is observed that average units cannot be charged unless the meter is declared to be defective in the record. A perusal of the bill included in the file shows that the column of the status of the meter is blank, therefore I find that the meter cannot be claimed to be defective unless shown to be defective in the bill and the matter cannot be referred to the Electric Inspector unless the meter is shown to be defective in the record therefore the claimant is entitled to the cancellation of disputed charges and payment of the actually consumed units.

8. In accordance with above discussion, the complaint is partly accepted to the extent of the issuance of the direction to the defendants to replace so called defective meter immediately on the basis of this order without any further application of the consumer by debiting the charges of the meter in the next bill while the disputed charges are hereby cancelled and modified bill is directed to be issued by deletion of disputed charges.

9. *Parties are left to bear their own costs.*

10. *This order would become final u/s 34 of PCP Act 2005, if the appeal is not preferred within period of 30 days under S.33 of PCP Act 2005 & Rule 18 of PCP Rules 2009 in accordance with the Rules of Procedure of Honourable High Court.*

11. *In case of delay in compliance, the claimant is entitled to get the order implemented by filing the application for implementation with reference to S.31, 32 & 36 of PCP Act, 2005, if so required with the warning to the*

defendants that the costs to be incurred for and during the application for implementation would be liable to be recovered from them.

12. *A copy of this order is to be provided to the representative of the defendants on demand free of costs.*

13. *A soft copy of this order would be available for publishing on the internet to the website of Punjab Consumer Protection Council Secretariat, 135-J, Model Town, Lahore for public disclosure and easy access of information to the consumers relating to the products and services under Rule 25 of PCP Rules, 2009.*

14. *The file of this complaint is to be consigned to the record room of this court duly page marked with proper index and after due completion and made available for issuance of attested copies and kept under safe custody till the period fixed for destruction in accordance with the Rules & Orders of Honourable Lahore High Court.*

Announced:
31-01-2012.

(MIRZA JAWAD A: BAIG)
D. & S. J. / P.O., D.C.C., D.G.K.,
PUNJAB, PAKISTAN.