

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

IA 242 of 2013
IN
DFR NO.742 of 2013

Dated: 31st July, 2013

Present: HON'BLE MR. JUSTICE M KARPAGA VINAYAGAM, CHAIRPERSON
HON'BLE MR. RAKESH NATH, TECHNICAL MEMBER

In the Matter of:
Arun Kumar Datta
222 Pocket E
Mayur Vihar-II
Delhi-110 091

.....Applicant/Appellant

Versus

- 1. Delhi Electricity Regulatory Commission**
Viniyamak Bhawan,
Shivalik 'C' Block,
Malviya Nagar,
New Delhi-110 017
- 2. BSES Yamuna Power Ltd.**
Shakti Kiran Building
Karkardooma,
Delhi-110 092

..... Respondent(s)

Amicus Curie Counsel : Ms. Swapna Seshadri

Counsel for the Respondent(s): Mr. Pradeep Misra
Mr. Manoj Kr. Sharma
Mr. Daleep Kr. Dhayani for R-1

O R D E R

**PER HON'BLE MR. JUSTICE M. KARPAGA VINAYAGAM,
CHAIRPERSON**

1. This is an Application for waiver of the Court Fee.
2. The Appellant/Applicant is a consumer. He has challenged the Tariff Order dated 22.10.2012 in Suo Motu Petition passed by Delhi Electricity Regulatory Commission in Petition No.42 of 2012, merged in the Tariff Order dated 13.7.2012. These orders related to the True-up for Financial Year 2010-11, Review and Provisional True-up for Financial Year 2011-12 and MYT Petition for the Financial Year 2012-13 to 2014-15.
3. During the course of the proceedings before the Delhi Commission, the Appellant/Applicant participated and raised the objections as permitted by the Delhi Commission. But his objections were not given due consideration while passing the impugned order dated 13.7.2012. Hence, the Appellant/Applicant has filed the present Appeal.
4. Despite the fact that the Appellant/Applicant appeared before the Delhi Commission and filed its' objections in the Tariff Proceedings, the Delhi Commission did not communicate the order dated 13.7.2012 to the Applicant. Hence, the Appellant/Applicant wrote several letters asking for certified copy of the order.

5. Initially, there was no response. Finally, the Appellant/Applicant received the certified copy of the order only on 12.10.2012 and as such he came to know about the contents of the order after receipt of the order. Thereafter, the Appellant/Applicant filed this Appeal on 8.4.2013 within 45 days from the date of the communication of the order.
6. According to the Appellant/Applicant, there was no delay in filing the Appeal and as such he did not file the Application to condone the delay. When the Registry objected to the maintainability of the Appeal, the matter was posted before this Tribunal for considering the maintainability of the Appeal. Since the objector filed this Appeal as a party in person, we appointed, the learned Counsel, Ms. Swapna Seshadri to act as Amicus Curie Counsel to make submissions on behalf of the Applicant.
7. Thereafter, on behalf of the Appellant/Applicant a detailed Affidavit has been filed explaining the circumstances under which the Appellant/Applicant approached this Tribunal after getting the certified copy of the order.
8. According to the learned Amicus Curie Counsel, the delay was not on the part of the Applicant but the said delay was due to the delay in despatch of certified copy of the order to the Applicant by the Delhi Commission and therefore, the Application to condone the delay is not necessary.

9. We have called for the explanation from the Delhi Commission with regard to the delay for sending the certified copy of the order and after receipt of the explanation, we have given a direction to the Delhi Commission not to cause any such delay in future.
10. In view of the circumstances mentioned in the Application, we have condoned the delay. In the Application, the Appellant/Applicant has prayed for waiver of the Court Fee also. Since there was no sufficient reason given in the said Application for waiver of the Court Fee, we have directed the Amicus Curie Counsel to file a detailed Affidavit with regard to the prayer of the Appellant/Applicant to waive of the Court Fee. Accordingly, a detailed Affidavit has been filed narrating the circumstances to show that the Appellant/Applicant was unable to pay the Court Fee.
11. According to the Applicant, he is an individual consumer and a Senior Citizen earning only a pension of Rs.9,325/- PM and therefore, it would not be possible for him to bear the Court Fee of Rs. 1 lac.
12. The learned Amicus Curie Counsel by pointing out various Section of the Electricity Act, 2003 as well as Clause 55 (3) of the Appellate Tribunal for Electricity (Procedure, Form, Fee and Record of Proceedings) Rules, 2007, has submitted that this Tribunal has got wide powers to deal with the

waiver of the Court Fee since the relevant rules permits this Tribunal to waive for the entire Court fee to cause of justice. It is prayed that the powers have been conferred to this Tribunal to pass the order regarding waiver of the Court Fee.

13. Even according to the Appellant/Applicant he is earning a pension of Rs.9,325/-PM. So it cannot be said that the Appellant/Applicant is an indigent person. Though we could give some other reason for waiver of the Court Fee, we are not inclined to waive the Court Fee in its entirety.
14. In view of the fact that the Appellant/Applicant has already spent some substantial amount in preparation, typing, photo copying etc., we deem it fit to waive the Court Fee of Rs.90,000/- and the Appellant/Applicant is directed to pay the balance Court Fee of Rs.10,000/- within two weeks on or before **19th August, 2013**.
15. The Registry is directed to number the Appeal and post it for admission on **21st August, 2013** after verification of the compliance.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

Dated:31st July, 2013

✓ ~~REPORTABLE/NON-REPORTABLE~~