

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

DFR 1456 of 2013

Dated: 25th Sept.2013

**Present : HON'BLE MR. JUSTICE M KARPAGA VINAYAGAM,
CHAIRPERSON
HON'BLE MR. V.J. TALWAR, TECHNICAL MEMBER**

In the Matter of:

**Sr. Divisional Elect. Engineer(TR-D)
NCR/Allahabad,
Office of the Electric(TR-D)
DRM Office, NCR/Allahabad
Pin Code-211001**

...Applicant/Appellant

Versus

- 1. Uttar Pradesh Electricity Regulatory Commission,
Through its Chairman
Kisan Mandi Bhawan, Second Floor,
Gomti Nagar,
Lucknow-226010**

- 2. UPPCL
(On behalf of Poorvanchal Vidhyut Vitaran Nigam
Limited)
Through its Executive Engineer
Having its HQrs office at DLW, Bhikharipur,
Varanasi**

...Respondent(s)

Learned Counsel for the Applicant/Appellant :

Mr.Jitender Kumar Singh

Learned Counsel for the Respondent(s): -

ORDER

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

Senior Divisional Electricity Engineer(TR-d),NCR/Allahabad is the Applicant/Appellant herein.

2. This Appeal has been filed by the Appellant as against the letter dated 03.1.2013 sent by the Uttar Pradesh State Electricity Regulatory Commission.

3. The Registry has posted this Appeal on the question of maintainability in view of the fact that the Registry has entertained a doubt with regard to maintainability of the Appeal, which has been filed as against the letter issued by the Secretary of the State Commission.

4. We have heard the learned Counsel for the Appellant with regard to the maintainability of the Appeal.

5. According to the learned Counsel for the Appellant, the present Appeal is maintainable because the letter dated 03.1.2013 issued by the Secretary of the State Commission justifies the existing provisions contained in the tariff order dated 19.10.2012.

6. On going through the Appeal paper book, it is evident that the tariff order was passed as early as on 19.10.2012. Admittedly, this order has not been challenged by the Appellant. On the other hand, the Appellant questioned the bill amount by sending a letter to the Distribution Licensee, the 2nd Respondent, PPCL.

7. Since there was no positive response, the Appellant sent a representation to the State Commission. In response to the said representation, the Secretary of the State Commission sent a reply through the letter to the Appellant indicating the existing provisions contained in the tariff order dated 19.10.2012. As against this letter dated 03.1.2013 issued by the Secretary of the State Commission, the Appellant has filed this Appeal.

8. At the outset, it has to be stated that the Appellant, instead of filing an Appeal as against the tariff order dated 19.10.2012 in time before this Tribunal it kept quiet all along and then now he has approached this Tribunal challenging the mere letter of the Secretary of the State Commission dated 03.1.2013 issued by the Secretary of the State Commission. On perusal of the said letter, it is clear that it is not an order nor a decision taken by the State Commission on adjudication of a dispute.

9. Therefore, we are of the view that this Appeal is not maintainable.

10. It is also noticed that along with the Appeal, the Appellant filed an Application for the condonation of delay of 147 days in filing the present Appeal. In the Application to condone the delay, it is stated that the impugned office order was received on 8.1.2013 and after due deliberation, the case was processed and the legal opinion was obtained and thereafter, this Appeal has been filed on 19th July,2013 with a delay of 147 days.

11. On going through the Application to condone the delay, it is clear that no satisfactory reasons have been given indicating the sufficient cause to condone the delay. Therefore, this Application is liable to be dismissed.

12. That apart, it is noticed that the Appeal paper book, on noticing some defects, was returned to the Appellant by the Registry for curing those defects and for re-presenting the matter within 7 days.

13. However, the papers have been re-presented and re-filed only on 16.9.2013. In this process also, there is a delay of 48 days in re-filing the present Appeal. Therefore, the Appellant filed a separate Application to condone the delay of 48 days in re-filing the present Appeal. On going through the Application, we find that there is no satisfactory reason given for explaining the delay of 48 days.

14. In the earlier paragraphs, we have held that the Appeal is not maintainable. Even assuming that Appeal is maintainable, the delay for both filing the Appeal as well as re-filing the Appeal can not be condoned in view of the bereft of reasons.

15. Therefore, the Applications to condone delay as well as to re-file the Appeal are dismissed. Consequently, the Appeal is rejected not only due to the reason that it is not maintainable but also due to the fact that Appeal was filed with enormous delay without proper explanation.

(V.J. Talwar)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

Dated:25th Sept, 2013

✓ ~~REPORTABLE/NON-REPORTABLE~~