

RAJASTHAN HIGH COURT

JVVNL

Vs.

Mangal Ram Sharma

Civil Spl. Appeal No. 972 of 2003
(Mrs. G.S. Misra and Govind Mathur, JJ.)

04.11.2004

JUDGEMENT

Mrs. G. S. Misra, J.

1. This appeal has been preferred against the judgment and order passed by learned single Judge of this Court on 11-9-2003 in SB Civil Writ Petition No. 2375/2003 by which the additional demand notice for Rs. 11000/- towards the electricity charges including the cost of the poles and its installation, has been quashed by the learned single Judge assigning reasons therein which discloses, that the additional demand which has been raised against the respondent agriculturist on the basis of a circular was already within the knowledge of the Jaipur VidhyutVitaran Nigam Limited (Hereinafter to be referred in short as 'the JVVNL') and only thereafter a demand of Rs. 72,710/- was raised by the petitioner against the electricity charges consumed by the respondent agriculturist.

2. The controversy in a nutshell which cropped up is that the respondent- consumer had initially failed to deposit the amount towards the electricity charges in the year 1999 but the Government of Rajasthan considering the hardships of the agriculturists/farmers, extended the date for payment of the amount towards the bills which had been issued to the consumers including the agriculturist-respondent herein. The last date for payment of the amount was fixed as December 30, 1999 and the liability of Rs. 72,710/- was duly discharged by the respondent-consumer as this amount was deposited within the stipulated period. However, the respondent on 31-3-2001 i.e. after two years raised an additional demand of Rs. 11,000/- for the same period as contained in Annex. 3, which was challenged by the respondent herein by filing a writ petition which was heard by the learned single Judge of this Court and a

show-cause notice was issued to the appellant JVVNL who was respondent therein calling for an explanation in regard to the demand notice. The respondent JVVNL came up with a justification that the additional demand of Rs. 11,000/- which was issued against the respondent-consumer was on the basis of a circular which was issued in the year 1999 for additional payment towards cost of the pole and its installation which has not yet been realized from the respondent and this cost accrued towards enhanced cost of installation of poles. Therefore, the demand notice for payment of an additional amount of Rs. 11,000/- had been issued to the respondent-consumer :

3. The learned single Judge after hearing both the parties and on a scrutiny of the facts which were involved in this writ petition concluded that the additional demand of Rs. 11,000/- was unjustified as the circular regarding the cost of the pole was already in existence in the year 1999 when the final payment of Rs. 72,710/- was raised against the respondent which includes installation and cost of the pole and that was the final amount to be paid by the respondent by 30-12-1999 which had been duly paid. Therefore the demand notice as contained in Annex. 3 was quashed by the learned single Judge and the electricity connection had been ordered to be released in favor of respondent agriculturist.

4. This appeal has been preferred against the aforesaid order of the learned single Judge and the learned counsel for the appellants Mr. VirendraLodha with great emphasis and conviction has submitted that the demand of Rs. 11,000/- was raised against the respondent in view of the circular of the year 1999, which could not be communicated to all the Assistant Engineers including the area where the respondent was a consumer and when it came to the knowledge of the Assistant Engineers, an additional demand was raised from the respondent. It was further stated that this amount was additional amount towards the enhanced cost of installation of poles.

5. But having gone through the documents in this regard, we do not feel convinced that the amount raised against the respondent is justified in any manner. The learned single Judge appears to be perfectly justified in observing that when the final demand was raised from the respondent which was to be paid by 30-12-1999, a demand of Rs. 72,710/- only was raised which was required to be paid by the respondent-agriculturist, and, therefore, the additional amount could not have been raised on the basis of the circular which was then in existence and was fully within the knowledge of the appellant-JVVNL. While agreeing with the reasons assigned by the learned single Judge, we are further of the view that once a final bill was raised indicating Rs.

72,710/- as an outstanding amount was the additional demand as certainly not justified on the plea that it was an amount towards the enhanced cost of the pole, as the appellant being a public authority had to raise a final bill at some point of time and it cannot be permitted to keep on sending additional notices incessantly for the same period on one pretext or the other. If this position is not maintained, there is no guarantee that in future an additional amount again may not be sent for the same reason or the other. When the bill which is issued is final in nature, the consumer rightly draws the presumption that all accountings towards the entire claim are incorporated in the final bill and once the final bill is paid, the additional demand is not justified unless the initial bill was indicated as provisional in nature. It is common knowledge that if the bill raised is not final in nature, it clearly indicates that it is provisional after which an additional amount may be charged. But if the bill is final in nature, additional amount cannot be allowed to be raised without proper justification. In the instant matter, the bill issued to the respondent was not a provisional bill and hence the additional amount in our view is not justified. We, therefore, fully concur with the view taken by the learned single Judge and dismiss the appeal.

6. Consequently, the sum of Rs. 11,000/- which has been deposited by the respondent with the appellant shall be adjusted against the future demand towards electricity consumption and the cost deposited by the appellant in this Court shall be awarded to the agriculturist-respondent herein.

Appeal dismissed.