THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition Nos.19304, 19305, 19306, 19307, 19309, 19310, 19311, 19312, 19313, 19314, 19316, 19317, 19336, 19368, 19388, 19393, 19400, 19433, 19435, 19441, 19445, 19448, 19460, 19462, 19467, 19471, 19479, 19485, 19487, 19492, 19509, 19514, 19517, 19518, 19520, 19521, 19522, 19523, 19525, 19527, 19529, 19534, 19537, 19538, 19541, 19542, 19544, 19545, 19547, 19548, 19550, 19552, 19554, 19555, 19557, 19558, 19559, 19560, 19561, 19562, 19564, 19565, 19566, 19567, 19634, 19654, 19656, 19660, 19664, 19665, 19670, 19674 and 20317 of 2015

COMMON ORDER:

In all these cases, the petitioners are HT consumers. They filed these writ petitions challenging the letters issued by the respondent-Southern Power Distribution Company demanding them to pay security deposits equivalent to two months average consumption charges. Since the point involved in all these cases is same, all these cases are being disposed of through this common order.

2. Heard the learned counsel for the petitioners and Smt. J. Koteshwari Devi, learned standing counsel for the respondent company.

3. The petitioners were issued with letters dated 31.05.2015 or similar letters demanding payment of the amounts towards additional consumption deposits on the ground that they have reviewed the adequacy of consumption deposits equivalent to two months over the consumption charges and noticed that the existing deposits were not sufficient.

4. It is an admitted fact of parties that Section 47 of the Electricity Act, 2003 enables the distribution licencee to require any person for providing reasonable security as determined by Regulations for the payment of all monies which may become due to it in respect of electricity supply to such persons and if such security was not valid or insufficient, the distribution licencee may require that

persons within 30 days after service of the notice to give reasonable security for the payment of all monies which may become due to it for supply of electricity. Sub-section (3) of Section 47 of the Electricity Act enables discontinuance of power supply in case of the consumers' failure to give security.

5. In pursuance to the said provision of the Electricity Act, Regulation No.6 of 2004 was made by Andhra Pradesh Regulatory Commission, called "Andhra Pradesh Electricity Regulatory Commission (Security Deposit) Regulation 2004". Regulation No.3 more or less incorporates Section 47. Regulation No.4 (2) speaks about HT consumers maintaining with the licencee an amount equivalent to consumption charges (i.e., demand charges and energy charges etc. as applicable) of two months as security during the period of agreement for supply of energy to such HT consumers. Regulation No.6 deals with review and payment of additional security deposit for the electricity supplied and it reads as follows:

> "6. **<u>Review and payment of Additional Security Deposit for the electricity supplied</u>**:
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> (1) **General Review**
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> Subject to the billing periods of three months or two months as specified in Clause 4, the adequacy of the amount of security deposit in respect of consumers shall be reviewed by the licensee generally once in every year (preferably after revision of tariff for the respective year) based on the average consumption for the period representing 12 (twelve) months from April to March of the previous year.
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> (2) **Demand notice for Additional Security Deposit**
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> (a) Based on review as per sub-clause (1) above, demand for shortfall or refund of excess will be made by the licensee:
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> Provided, however, that if the security deposit payable by the consumer is short by or in excess of not more than 10% of the existing security deposit, no demand for shortfall will be made for payment of Additional Security Deposit and the consumer shall not be entitled to demand the refund of the excess.
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> (b) If the existing Security Deposit of a consumer is found to be in excess by more than 10% of the required security deposit, refund of the excess security deposit shall be made by the Licensee by adjustment of the then outstanding dues from the consumer to the Licensee or any amount becoming due from the consumer to the Licensee immediately thereafter.

(c) Where the consumer is required to pay Additional Security Deposit, the Licensee shall issue to the Consumer a 30 days' advance notice specifying the amount payable with supporting calculations."

6. The impugned order was passed in exercise of the said power only. The learned standing counsel for the respondents relied on the following observations made by the Supreme Court in ***Ferro Alloys Corporation Ltd., v. A.P. State Electricity Board*** [1] as extracted i n ***Venkateswara Rice Mills, Uppal v. Superintending Engineer, Operation Rural Circle, APSEB, Hyderabad and Others*** [2]:

"In holding so we have regard to the following:

(1) The Consumer made the security deposit in consideration of the performance of his obligation for obtaining the service which is essential to him.

(2) The electricity supply is made to the consumers on credit as has been noted above.

(3) The billing time taken by the Board is to the advantage of the consumer.

(4) Public revenues are blocked in generation, transmission and distribution of electricity for the purpose of supply. The Board pays interest on the loan borrowed by the Board. This is in order to perform public service. On those payments made by the Board, it gets no interest from the consumers.

(5) The Board needs back its blocked money to carry out public service with reasonable recompense.

(6) The Board is not essentially a commercial organization to which the consumer has furnished the security to earn interest thereon."

7. In view of the impugned order, it is clear that security deposits of the petitioners exist with the respondent company, but on review of the electricity consumption of the petitioners, the respondent company thought it fit to demand additional consumption deposits from the petitioners. Such a power is vested with them under the Regulations framed by the Andhra Pradesh Electricity Regulatory Commission. The petitioners did not challenge such Regulations. In view of the existence of the power with the respondents, the impugned order cannot be said to be illegal. Accordingly, all the writ petitions are liable to be dismissed.

8. At this stage, the learned counsel for the petitioners made an oral request for giving them liberty to file fresh writ petitions challenging the Regulations, if they are instructed so by the petitioners.

9. It is needless to mention that it is open for the petitioners to challenge the Regulations, if they so desire.

10. With the above observations, all the writ petitions are dismissed. Miscellaneous Petitions, if any pending in these writ petitions, shall stand closed. No order as to costs.

A. RAMALINGESWARA RAO, J

Date: 17.07.2015
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[1] 1993 (3) SCR 199

[2] AIR 1999 AP 416