

THE HON' BLE SRI JUSTICE C. V. NAGARJUNA REDDY
AND
THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No. 26464 of 2011

Date: 12th July, 2018

Between:

J. Naresh, S/o Muthaiah

... Petitioner

And

The District Consumer Dispute Redressal Forum

... Respondents

COUNSEL FOR PETITIONER : Mr. Zakir Ali Danish

COUNSEL FOR RESPONDENTS : AGP for Civil Supplies for R1
None appeared for R2

THE COURT MADE THE FOLLOWING:

ORDER: (per the Hon' ble Sri Justice C.V. Nagarjuna Reddy)

This Writ Petition is filed for issue of Mandamus, to declare the order dated in C.C.No.41 of 2010 on the file of District Consumer Disputes Redressal Forum, as illegal and without jurisdiction.

Though respondent No.2 has been served, no one represented him. Learned AGP attached to respondent No.1 is also not present. We have heard Mr. Zakir Ali Danish who stated that he was instructed to appear in place of Mr. P. Laxma Reddy, advocate on record for the petitioner.

Respondent No.2, at the relevant point of time, was working as lineman in A.P. Northern Power Distribution Company Limited, at Peddapalli, Karimnagar District. He was suspended from service on 11.09.2008 for causing fatal electrical accident to one K. Prasanth, Junior Lineman (Contract). Later he was reinstated into service as per the directions of this Court in W.P.No.20777 of 2008. He filed an application on 28.10.2009 before the petitioner seeking supply of copies of Show Cause notices, final orders and pending cases from 19.07.2007 to 28.10.2009 issued by the petitioner. On seeking clarification from the Chief General Manager (HRD), the petitioner addressed letter dated 18.04.2010 to respondent No.2 informing him that the information sought by him falls within the exempted category of Section 8(1)(f) and Section 8(1)(j) of the Right to Information Act, 2005 (for short, 'the RTI Act'). Aggrieved by the said information, respondent No.2 filed an appeal before the A.P. Information Commission, Hyderabad, which was returned on 09.06.2010, as not maintainable, as respondent No.2 ought to have filed a

first appeal under Section 19 of the RTI Act. Instead of filing such appeal, respondent No.2 has filed the above mentioned complaint complaining of deficiency in service and claimed compensation of Rs.99,000/-.

The petitioner has filed his version opposing the complaint. He has raised objection regarding the jurisdiction of the District Forum to entertain the complaint. The District Forum framed issues to entertain the case purporting to rely upon the judgment of the National Commission in Revision Petition No.1975 of 2005, dated 28.05.2009. The District Forum partly allowed the complaint holding that by not supplying the information, the petitioner has caused deficiency of service as the application of respondent No.2 was rejected after a lapse of 5 months and 28 days from the date of the complaint.

Section 2(1)(c) of the Consumer Protection Act defines “complaint”. Section 2(1)(e) defines “Consumer Dispute”, which means a dispute where the person against whom a complaint has been made, denies the allegations contained in the complaint. In the present case, respondent No.2 complained of deficiency in service, which is covered by Section 2(1)(c)(iii) which reads as under:

“The services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect”

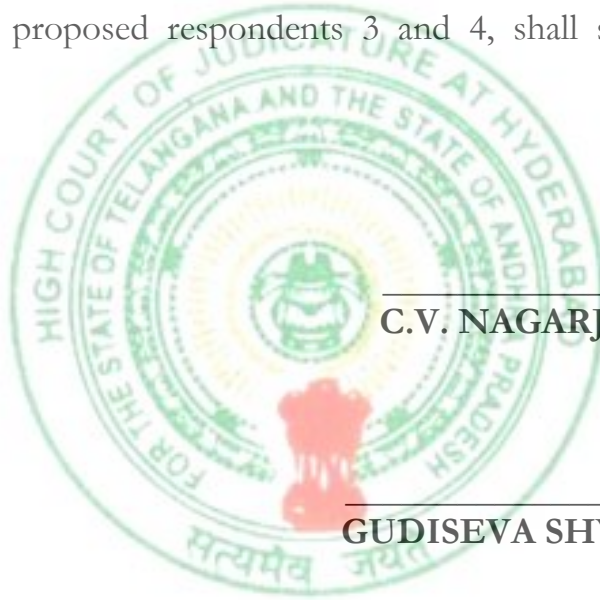
The relationship between the petitioner and respondent No.2 is that of an employer and employee. It is not the pleaded case of respondent No.2 that he has hired the services of the petitioner. Therefore, even if the petitioner has failed to act within the time purportedly prescribed under the RTI Act, the District Forum ought to have thrown out the complaint as

wholly not maintainable. In our opinion, the District Forum has made a perverse approach in holding that the consumer complaint is maintainable as the petitioner has caused deficiency of service.

On the analysis as above, the impugned order is quashed as one without jurisdiction.

In the result, the Writ Petition is allowed.

As a sequel to the allowing of the Writ Petition, W.P.M.P.No.32663 of 2011 filed for interim suspension; and W.P.M.P. No.33117 of 2011 filed for impleading proposed respondents 3 and 4, shall stand disposed of accordingly.



C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

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