

CWP-9395-2013

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-9395-2013

Date of Decision: May 24, 2019

**The General Manager, Uttar Haryana Bijli Vitran Nigam Limited
and another**

... Petitioners

vs.

National Fertilizers Limited

.. Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Ms. Swati Batra, Advocate
for the petitioners.

Mr. Ashwani Talwar, Advocate
for the respondent.

ARUN MONGA, J.(ORAL)

The only ground taken by the Electricity Ombudsman, for over-ruling the Consumer Grievances Redressal Forum's clear finding that the case of respondent is barred by limitation, is that there was correspondence going on between the parties and since final decision had not been taken, therefore, the period of limitation kept on getting extended.

2. The argument of the learned counsel for the respondent that the letter dated 08.11.2008 (Annexure P-1) was replied by the General Manager, vide his letter dated 19.05.2009 (Annexure P-2) and , therefore, in view of that reply, the limitation stood extended, is not tenable as the first letter itself is time barred for the purposes of filing the complaint before the Consumer Grievances Redressal Forum (for short 'CGRF') in terms of Clause 8.1 of the Regulation of Haryana Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of

Grievances of the Consumers) and (Electricity Ombudsman) Regularion, 2004.

3. Having gone through the pleadings and heard the learned counsels for the parties, I am not in agreement with the reasoning assigned by the Ombudsman.

4. Concededly, the first letter seeking claim of interest for a period of 10.12.2003 to 31.07.2006, by respondent, was written on 08.11.2008 (Annexure P-1), which *ex facie* is beyond the period of limitation and the complaint, if any, ought to have been filed within one year of the establishment of the Consumer Grievances Redressal Forum, as per Regulation 8.1 (i) of the Haryana Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers) and (Electricity Ombudsman) Regularion, 2004. The relevant of the said regulation is extracted here-in-below:-

8. Procedure to file the Complaint

(1) Every complaint must be filed in writing in duplicate to the Chairperson of the Forum by the Complainant in Form-I. Provided that

i) the complaints relating to previous years pertaining to any grievance covered under regulation 7 can be filed with the forum within one year of its coming into existence.

ii) after one year of the establishment of the Forum, only those complaints filed within 1 year of its cause for action shall be entertained by the Forum.

iii) the complainant has exhausted the channel of redressal of grievances with the distribution licensee under the "Complaint Handling Procedure relating to Distribution & Retail Supply" as approved by the Commission at least up to XEN level.

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iv) The Complaint does not pertain to the same subject matter for which any proceedings before any court is pending or a degree or award or a final order has already been passed by any competent court;

5. A perusal of the above Clause leaves no doubt that the respondent ought to have approached the Forum within one year of the establishment of the CGRF and the compliant was filed in the year 2011, which is clearly time barred.

6. In the premise, the petition is allowed and impugned order dated 28.09.2012 (Annexure P-4) is set aside. No order as to costs.

May 24, 2019
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(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No