

ML-68
Ct No.09
14.09.2022
TN

WPA No. 21438 of 2021

Sachidulal Modak

Vs.

The Chairman, West Bengal State Electricity
Distribution Company Limited and others

Mr. Mohinoor Rahaman,
Ms. Maria Rahaman,
Ms. Iqra Rahaman

.... for the petitioner

Mr. Sujit Sankar Koley

.... for the WBSEDCL

Learned counsel for the petitioner contends that as long back as in the year 2010, the petitioner had deposited an amount to the tune of about Rs.80,000/- for getting a new electricity supply .

Such amount was subsequently not returned by the West Bengal State Electricity Distribution Company Limited (WBSEDCL) even after the petitioner communicated in the same year the petitioner's intention not to proceed with such application for new electricity connection any further.

It is contended that despite repeated correspondence between the petitioner and the WBSEDCL, the amount deposited was not refunded, for which the present writ petition had to be preferred in the year 2021.

It is further argued that the petitioner is a senior citizen and the money was required at the relevant period for the imminent marriage of the petitioner's daughter. Although the said requirement is no longer there, it is submitted that the money had been accumulated by sale of the petitioner's property and the petitioner being of advanced years, would require the money at present. It is further submitted that although pursuant to an order of court the principal amount of Rs.80,000/- (approximately) has been returned by the WBSEDCL to the petitioner, the interest thereon ought to be paid by the WBSEDCL as well to the petitioner, since the money was blocked with the WBSEDCL for so long without any fault on the part of the petitioner.

Learned counsel appearing for the WBSEDCL submits that as per norms and existent rules, the petitioner was to submit the original receipt of payment in order to get back a refund, which exercise was never done by the petitioner since 2010.

That apart, it is submitted that the limitation period for claiming such amount has long expired, thereby debarring the petitioner from seeking such amount.

Upon hearing learned counsel for the parties, it transpires that the petitioner is undoubtedly an

octogenarian and might be in need of financial support. Although the first claim was made in the year 2010 for refund of the money, the subsequent claims made by the petitioner do not automatically extend the limitation period, since the refusal itself took place first in the year 2010 itself, which necessitated the subsequent several correspondences of the petitioner.

In fact, since the claim was first made in the year 2010, the limitation period for claiming back the money has long expired in the last 12 years.

The writ petition itself was filed only in the year 2021, for which the blame ought to be shared by the petitioner due to the delay caused in approaching court with such claim.

Be that as it may, the writ court is also a court of equity and it is evident that the petitioner is in urgent need of financial support. Since the WBSEDCL has shown an absolutely fair gesture in refunding the principal amount of around Rs.80,000/- to the petitioner without production of any original receipt by virtue of the order of this court, on the strength of the photocopies of such relevant receipts annexed to the writ petition, the WBSEDCL ought not to be further penalized by imposing interest on the principal amount.

However, be the claim time-barred or not, it will be nothing less than cruel to direct the petitioner to refund the amount of Rs.80,000/- which, in any event, had been deposited by the petitioner in the year 2010. Since the petitioner has not taken the electricity connection at all, the said amount of Rs.80,000/- shall be appropriated by the petitioner in full and final settlement of the petitioner's claim with regard to the refund-in-question.

However, it is made clear that no further amount shall be claimed by the petitioner or need be paid by the WBSEDCL with regard to such claim of the petitioner at any point of time, present or future.

Accordingly, WPA No. 21438 of 2021 is disposed of in the light of the above observations.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)