

22nd December,
2023
(AK)
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W.P.A. 25367 of 2023

Sasanka Sekhar Jana
Vs.
West Bengal State Electricity Distribution Company
Limited and others

Mr. N.I. Khan
Mr. Amlan Kr. Mukherjee
...for the petitioner.

Mr. Sujit Sankar Koley
...for the WBSEDCL.

1. The writ petition has been filed by a consumer of electricity from the WBSEDCL.
2. Learned counsel for the petitioner argues that the petitioner applied for electricity on April 11, 2007 and the quotation was raised on December 21, 2009.
3. In the interregnum, a Circular dated July 15, 2008 was issued by the WBSEDCL, giving a subsidy to all pending quotations to the tune of Rs.80,000/-.
4. However, when the petitioner applied for such subsidy in the year 2022, the Grievance Redressal Officer (GRO) refused the claim on the ground that the petitioner had come beyond the statutory limitation of ninety days.
5. It is argued that similarly placed other persons were given the benefit of the subsidy although the

applications were made much after the expiry of the limitation period for making the claim after the Circular was issued.

6. For such purpose, learned counsel places reliance on certain orders passed by the Ombudsman in respect of others who are alleged to be similarly placed.

7. Learned counsel for the respondent-WBSEDCL submits that the persons covered by the annexed orders were not similarly placed as the petitioner.

8. It is contended that the Circular dated July 15, 2008 took into account only the quotations pending at that juncture. However, the petitioner's quotation was raised much thereafter and as such the subsidy does not apply to the petitioner at all.

10. That apart, as per Clause 6.1 of Regulation No.56 dated August 26, 2013 of the WBERC, the application was made before the RGRO (Regional Grievance Redressal Officer) much after the expiry of ninety days from the cause of action.

11. It transpires from the impugned decision of the RGRO that the premise of rejection was Clause 6.1 of Regulation 56.

12. Apparently, the RGRO counted the cause of action from the date when the right of the petitioner to get the subsidy accrued.

13. The GRO cannot be said to be at fault on such count.

14. If the petitioner had any cause of action, the same would have arisen in July 15, 2008 on the date of the Circular or, at the worst, on December 21, 2009, when the quotation was raised. Hence, in any event, the petitioner's claim would be time-barred.

16. Insofar as the other persons are concerned, it transpires from the order dated November 22, 2022 passed by the Ombudsman annexed at page-36, relied on by the petitioner, that in the said case, the WBSEDCL had realized excess proportionate cost from the consumer. Since the liability of the WBSEDCL to refund such excess amount continued all along and it did not require a further claim being made by the consumer, the Ombudsman proceeded on the premise that as the RGRO had already passed final order advising refund of the amount the said position should not be resiled from.

17. In the present case, however, it is not a question of excess payment being made. The petitioner, at the

inception, ought to have been aware of the Circular which had been issued before the quotation was raised.

18. Thus, the claim of the petitioner having been made for the first time in the year 2022, the claim was in any event hopelessly time-barred and much beyond the period of ninety days as contemplated in the concerned Regulation.

19. On a more basic premise, the WBSEDCL is justified in contending that the Circular dated July 15, 2008 clearly applied only to the quotations which were pending at that stage.

20. In the case of the petitioner, admittedly as per the quotation annexed at page-22 of the writ petition, the application had been made on April 11, 2007 but the quotation on the same was raised on December 21, 2009.

21. Thus, at the juncture when the Circular was issued, that is, on July 15, 2008, there was no “pending quotation” as contemplated in the said Circular.

22. The justification of the Circular is evident, since in quotations which were pending at the point of time of its issuance, the WBSEDCL had already added excess amount to the quotations, regarding which a subsidy was subsequently obtained by the WBSEDCL, the benefit of which was sought to be extended to the consumers by

making necessary adjustments by way of subsidy from their estimates.

23. However, since the petitioner's quotation was raised subsequently on December 21, 2009, there was no occasion for the WBSEDCL to incorporate in the quotation the amount regarding which subsidy was obtained by the WBSEDCL.

24. Hence, there was no scope of applying the Circular to the petitioner in any event.

25. Thus, the argument of the petitioner on the premise of violation of Article 14 of the Constitution is not applicable since the petitioner is not similarly placed as other persons who got benefit of the orders of the Ombudsman.

26. In any event, it is well-settled that two wrongs do not make a right. Even if some person similarly placed as the petitioner had got the benefit of erroneous or illegal orders, another citizen of India cannot come up and claim equality on the basis of such illegal order. As such, the argument on Article 14 is entirely misplaced.

29. In view of the above observations, WPA 25367 of 2023 is dismissed on contest without any order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)