

TELECOM DISTRICT MANAGER, GOA AND ORS.

v.

V.S. DEMPO & CO. AND ORS.

MARCH 18,1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Indian Telegraphs Act, 1885 :*

*Section 7B—Interpretation of.*

*Telephone—Subscriber—Billing dispute—Determination of dispute by Arbitrator to be appointed by Central Government—Reference to Arbitrator—Held authority under the Act is enjoined to make reference to Arbitrator without any direction of Court—Administrative instructions issued by Union of India providing for dispute to be referred only when there was a reference by Court—Held in defiance of the language used in Section 7-B—Object of section 7-B explained.*

CIVIL APPELLATE JURISDICTION : I.A. No. 4-6.

IN

Civil Appeal Nos. 10005-07 of 1995.

From the Judgment and Order dated 31.3.95 of the Bombay High Court in W.P. Nos. 398, 134 and 192 of 1994.

R. Venugopal Reddy and Ms. Anil Katiyar for the Appellants.

The following Order of the Court was delivered :

Appeals are taken on board.

These appeals by special arise from the judgment of the Bombay High Court, Panaji Bench made on March 31, 1995 in C.W.P. No 398/94 and batch. The fact relate to the dispute raised by the respondents for two bills, one for a sum of Rs. 99,196 and the other for Rs. 71,280. The appellant-Union of India has taken the stand that under the Administrative Instructions issued by it, the dispute cannot be referred unless the subscriber approaches the Court and the Court gives the direction for appoint-

ment of an arbitrator under Section 7B of the Indian Telegraphs Act. Section 7B reads as under :

"7-B Arbitration of Disputes : (1) Except as otherwise expressly provided in this Act, if any dispute concerning any telegraph and telegraph authority and the person for whose benefit the line, appliance or apparatus, is, or has been, provided, the dispute shall be determined by arbitration and shall, for the purposes of such determination, be referred to an arbitrator appointed by the Central Government either specially for the determination of that dispute or generally for the determination of disputes under this section.

(2) The award of the arbitrator appointed under sub-section (1) shall be conclusive between the parties to the dispute and shall not be questioned in any court."

A reading thereof would indicate that if any dispute concerning any telegraph line, appliance or apparatus arises between the telegraph authority and the person for whose benefit the line, appliance or apparatus is, or has been provided, the dispute shall be determined by an arbitrator. Such determination shall be referred to an arbitrator appointed by the Central Government either specifically for the determination of the dispute or generally for the determination of dispute under this section. The award of the arbitrator shall be conclusive between the parties to the dispute and its correctness is prohibited to be questioned in a court of law. It would, otherwise, be clear that any dispute regarding the billing of the meter and the liability on a subscriber thereon when its correctness is disputed, should be referred to the arbitrator by the Central Government. The arbitrator's award shall be final. In a recent judgment, considering the provisions of the Act, this Court has explained that when the arbitrator's award is final, it would be subject to only judicial review. The judicial review by the High Court or this Court would be possible only when the arbitrator gives reasons in support of the conclusions he reaches, be it technical or on factual basis. The Administrative Instructions issued by the Union of India that the dispute shall be referred only when there is a reference by the Court is obviously in defiance of the language used in Section 7B. The power to refer the dispute has been given by the Parliament only with a view to see that the authority acts within reasonable limits and that when

subscriber disputes the correctness of the meter reading or operation of the apparatus etc. instead of litigating the dispute in a civil Court, it should be decided by arbitrator under Section 7B. Obviously, pending proceedings the Act intended to operate without undue delay to secure public revenue and also flow of electrical operation envisaged under the Act. Under those circumstances, we are of the view that the High Court is right in directing that the authority under the Act is enjoined to make reference under Section 7B without any direction by the Court and if need be it is for the subscriber to approach the Court.

The appeals are accordingly dismissed with above directions. No costs.

Appeals dismissed.