

(2001) 03 NCDRC CK 0066

In the National Consumer Disputes Redressal Commission

ALKA SHARMA

APPELLANT

Vs

SURJIT SINGH

RESPONDENT

Date of Decision : 22-03-2001

Acts Referred:

Citation : 2001 2 CLT 586 : 2001 2 CPC 343 : 2001 2 CPR 525 : 2002 1 CPJ 399

Hon'ble Judges : K.K.Srivastava , P.K.Vasudeva , Devinderjit Dhatt J.

Final Decision : Appeal allowed

Judgement

1. THIS appeal has been filed by Miss Alka Sharma d/o Sh. L.K. Sharma, r/o 3455, Sector 35-D, Chandigarh under Section 15 of the Consumer Protection Act, 1986 [for short hereinafter referred to as the C.P. Act] against the order dated 4.8.2000 passed by the District Consumer Disputes Redressal Forum-II, U.T., Chandigarh [for short hereinafter referred to as the District Forum-II] whereby Complaint Case No. R.B.T. 844 of 1997 filed by the appellant had been dismissed.

2. MISS Alka Sharma had obtained C.T.U. Bus Pass No. 1571 valid from 4.6.1996 to 4.9.1996 on payment of requisite charges for travelled from Sector 35-D to Sector 12, Punjab Engineering College, Chandigarh. On 20.8.1996, she travelling in bus No. 35 at 12 noon from Sector 35-D to Sector 26, Guru Gobind Singh College via bus stand. The conductor of the bus was Shri Surjit Singh. When the bus conductor was checking the tickets, the appellant/complainant showed the bus pass to him but it is alleged that he behaved rudely with the appellant/complainant and asked her to buy the ticket. She requested repeatedly to allow her to travel in the bus as she had valid pass to travel in the bus but her request was not allowed by the bus conductor. Thereafter some heated arguments took place resulting in summoning of police. The appellant/complainant was taken to the Police Post at the bus stand. It is alleged that she was made to sit there from 12 p.m. to 9 p.m. It was only at 8.30 p.m. that the parents of the appellant/complainant and other people came and paid a sum of Rs. 1,200/- as fine and secured her release. The appellant/complainant lodged a complaint to S.S.P. on 27.8.1996, but no action was taken thereon and, as such, she filed the complaint

case in the District Forum-II, U.T., Chandigarh. She has claimed compensation for having been put to lot of unnecessary harassment and was deprived of the opportunity to get job for which she was going for interview. She has also claimed refund of her money amounting to Rs. 1,200/- and compensation for mental harassment. Shri Bhoop Singh s/o Sh. Chem Ram r/o H. No. 3455, Sector 35-D, Chandigarh in his affidavit has confirmed as under : "1. That on 20th August, 1996, I had received the phone calls from Miss Alka Sharma who was in police station and came at 9 p.m. at the same date. 2. That I had seen two policemen, one conductor and one unknown person were forcing to give Rs. 1,200/- and apologized to Miss Alka Sharma and her mother."

It was alleged in the grounds of appeal that the District Forum-II, U.T., Chandigarh has erred in dismissing the complaint. It has failed to appreciate the contents of the affidavit filed by Shri Bhoop Singh, neighbour of the complainant - Miss Alka Sharma where it has been clearly mentioned that the amount of Rs. 1,200/- was given to the Divisional Manager, Chandigarh Transport Undertaking, Chandigarh which is the main law point pertaining to the deficiency in service on the part of the opposite party No. 2 i.e. Divisional Manager, C.T.U., Chandigarh.

3. NOTICES of the appeal were served on the opposite parties. Opposite party No. 1 - Shri. Surjit Singh driver put in appearance and opposite party No. 2 Divisional Manager, C.T.U., Chandigarh put in appearance through Mr. K.C. Sahu, Government Pleader. Record of the complaint case was summoned from the District Forum-II, U.T., Chandigarh. We have heard the learned Counsel for the appellant/complainant Mr. K.K. Jagia, Advocate, opposite party No. 1 - Mr. Surjit Singh and Mr. K.C. Sahu, Govt. Pleader appearing for opposite party No. 2. We have also carefully perused the documents, affidavits on the record of the complaint file and the order under appeal.

4. IN his affidavit, the opposite party No. 1/respondent No. 1 - Shri Surjit Singh, conductor has averred that the bus pass was valid only after 5 p.m. as per the endorsement made on the said pass. He had also controverted the facts that the appellant/complainant boarded the bus at about 12.00 noon from Sector 35 on 20.8.1996 when he was on duty as conductor with the said bus. It has been averred by the opposite party No. 1/respondent No. 1 - Shri Surjit Singh in para 3 of his affidavit that he directed the appellant/complainant to purchase the ticket but she produced the pass on which she was not entitled to travel before 5.00 p.m., according to him. He has further averred that he tried to convince the appellant/complainant that she cannot travel with this pass because it was invalid but she did not agree to his request. Despite his repeated requests, the bus reached the bus stand and he reported the matter to the C.T.U. INspector at bus stand i.e. Shri Mohinder Singh and showed him the pass of the appellant/complainant. INspector Shri Mohinder Singh also asked the appellant/complainant to go to the police post but the appellant/complainant did not accompany him and later on a lady Constable was called who took her to the

police post at ISBT, Sector 17, Chandigarh. Thereafter, it has been averred that the appellant/complainant's mother along with the residents of that locality came there and in the presence of the Union Leaders and police, a compromise was arrived at as the appellant/complainant admitted her fault and gave assurance that she will be careful in future. Copy of the said compromise has been annexed as Annexure R-1 with the complaint case. The opposite party No. 1/respondent No. 1 - Shri Surjit Singh, conductor denied having taken Rs. 1,200/- on account of fine because of the compromise and on the appellant/complainant's apology, she was let off by the police. Opposite party No. 2/respondent No. 2 - Chandigarh Transport Undertaking, Chandigarh has also filed their affidavit through Shri Kuldip Singh Nagra, General Manager, Chandigarh Transport Undertaking, Chandigarh in the complaint case wherein respondent No. 4 has confirmed that Miss Alka Sharma, appellant/complainant boarded the bus on 20.8.1996 at about 12.00 noon from Sector 35. The respondent No. 1 Shri Surjit Singh, C. No. 274 asked the appellant/complainant to purchase the ticket but she produced the pass which was invalid for travelling before 5.00 p.m. Accordingly, the conductor directed the complainant to buy the ticket as she could not travel free of cost on the basis of the said invalid pass. The appellant/complainant, it has been alleged, did not take the ticket as a result of which the respondent No. 1 reported the matter to the C.T.U. Inspector Shri Mohinder Singh at bus stand who also asked the appellant/complainant to take the ticket but the appellant/complainant flatly refused. Shri Kuldip Singh Nagra further averred in his affidavit that a lady Constable was called to take the appellant/complainant to the police post at ISBT, Sector 17, Chandigarh, where a compromise [Annexure R-1] was arrived at as the appellant/complainant admitted her fault and gave assurance to be careful in future. The Chandigarh Transport Undertaking, Chandigarh - respondent No. 2/opposite party No. 2 has denied that Rs. 1,200/- were paid on account of fine by the appellant/complainant. It has also been alleged that the affidavit of Shri Bhoop Singh who has confirmed having paid Rs. 1,200/- as fine is false and frivolous. After hearing the learned Counsel for the appellant/complainant, learned Govt. Pleader appearing for opposite party No. 2 and the respondent No. 1 in person and carefully verifying the History Register of Types of C.T.U. Department [Annexure R-1], Notification [Annexure R-2], Rules governing the monthly passes, General Passes, affidavits filed by both the parties in the shape of evidence, it is found that nowhere in these directions, it has been mentioned that there are specific timings given in the bus pass. It has also been verified from the Bus Pass bearing No. 1571 G.T.S. issued to Miss Alka, photocopy of which has been placed on record of the complaint file that it was valid only for a specified time and particularly after 5 p.m.

5. IN view of the foregoing discussion, we are of the opinion that the appellant/complainant, Miss Alka Sharma has been put to undue harassment by Shri Surjit Singh, conductor/opposite party No. 1. There appears to be absolutely no valid ground for the detention of the complainant at the police post for the alleged

unauthorized travel on bus of a route quite different from the one for which pass was issued to her by the respondents. There is also no justification for the respondents to release the complainant only after she was made to pass a sum of Rs. 1,200/- for the said unauthorized travel on the bus and both these things clearly constitute grave deficiency on the part of the opposite parties. The deficiency in service on the part of the respondents have been adequately proved for reasons firstly not allowing to travel with valid pass and secondly for destroying to record when the complaint case hearing was going on in the District Forum-II. We find considerable merit in the appeal which is allowed and the respondents are liable to refund a sum of Rs. 1,200/- to the appellant/complainant which was charged from her as fine with interest @ 9%. She is also entitled to a sum of Rs. 1,000/- as costs towards mental harassment and agony which she suffered, which we award accordingly. Copies of this order be supplied to the parties free of charges. Appeal allowed.