

(2001) 10 NCDRC CK 0010

In the National Consumer Disputes Redressal Commission

BHARAT SARKAR DOOR SANCHAR VIBHAG

APPELLANT

Vs

AZADAR HUSAIN ZAIDI

RESPONDENT

Date of Decision : 10-10-2001

Acts Referred:

Citation : 2002 1 CLT 488 : 2002 1 CPC 474 : 2002 2 CPJ 383

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna , Rachna J.

Final Decision : Appeal partly allowed

Judgement

1. THIS is an appeal against the judgment and order dated 18.12.2000 passed by District Consumer Forum, Farrukhabad in Complaint Case No. 362/1999. The facts of the case in brief are that the complaint has been filed by the complainant for correction of following telephone bills and for recovery of Rs. 50,000/- as compensation. Bill dated 1.7.1996 for Rs. 2,116/- Bill dated 1.9.1996 for Rs. 2,333/- Bill dated 1.10.1996 for Rs. 1,871/- Bill dated 1.12.1996 for Rs. 1,463/- Bill dated 16.7.1998 for Rs. 1,406/- Bill dated 16.9.1998 for Rs. 851/- Bill dated 16.5.1998 for Rs. 669/-

2. THE complainant had been paying regular bills for telephone Nos. 26657 and 25656. Some of the bills have been issued for higher amount for which complainant made complaint and deposited the amount under protest. He also made complaint to the news papers as a result of which the telephone of the complainant had been disconnected from time to time. The opposite parties in written version have alleged that the facts have been suppressed. The meter of the complainant was kept under observation and was found to be correct. The reading is done on computer and the complainant's application was also kept before Telephone Adalat in which in bills dated 1.10.1996 and 1.12.1996, 500 calls were deducted. The complainant was not satisfied with this hence he did not deposit the amount. It is alleged that prior to 20.2.1997 STD was available in the telephone of the complainant and bill dated 30.4.1998 is RSTD. There is no justification for giving rebates.

Parties led their evidence before the District Consumer Forum who after

considering the facts of the case came to the conclusion that there was deficiency in service on the part of opposite parties and directed that the disputed bills shall be taken @ Rs. 388/- per bill and amount shall be paid by the complainant within one month after correct bills are given to him. A sum of Rs. 5,000/- was also awarded as damages along with interest @ 18% till the date of payment.

3. AGGRIEVED against this judgment and order the opposite parties have come in appeal. We have heard the Counsel for the parties. Learned Counsel for the appellants has argued that the calls are recorded on computer and there is no question of cancellation of calls. He further argued that it is a STD connection.

4. ON the other hand the learned Counsel for the opposite party argued that no notice was given before disconnection and amount for three bills which was reduced relate to the prior period. A perusal of the file will go to show that according to the appellant meter of telephone of complainant was kept under observation and it was found that calls were correctly recorded. The complaint of the complainant was rightly disposed off. In the present case the appellant has not filed any document on record to show that the meter was kept under observation and calls were found to be correct. When meter was kept under observation some report would have been prepared but that report has not been filed by the appellant. A perusal of the file further goes to show that telephone of the complainant was STD upto 20.2.1997. When the telephone of the complainant was working on STD it is possible for the bill of that period could have been of the amount shown in the bill because in case there is STD facility a party is entitled to call any person any where through the country. Details of calls in the STD must have also been supplied to the complainant so that complainant may know the calls which he has not made but it was shown to have been done by him. Therefore, the bills before this date cannot be said to be on the excessive side. The bills dated 16.9.1998 and 16.5.1998 appear to be correct as they are on the lower side. There remains only one bill dated 16.7.1998 for Rs. 1,406/-. This bill could not have been for such much amount as STD has been withdrawn by that time and Telephone Department has not filed any paper to show that checking has been done of this bill. Telephone Department has failed to show that even after disconnection how the calls of the complainant continued to be of the same level as they were when STD was there. Therefore, bill dated 16.7.1998 is not correct. The learned District Forum should have only given relief about this bill and not to other bills because prior to that date telephone was having STD facility and bills of that period cannot be said on excessive as all the bills in question of that period are reasonable. Only bill dated 16.7.1998 needs to be taken consideration.

5. THE National Commission has held in number of cases that average cannot be done and Telephone Department cannot be directed to prepare bills on average basis. Telephone Department has already issued bills for the amount and as stated that the bills which were issued were correct. THEREfore, there is no point

for directing the Telephone Department for correcting the bills. Thus there is no option left for this Commission to struck down the entire bills. However, Telephone Department shall issue a fresh bill of 16.7.1998 for rent of telephone only which shall be paid by the complainant.

6. THUS the appeal is liable to be allowed in part and complainant can only get relief with respect to bill dated 16.7.1998 for Rs. 1,406/-. ORDER The appeal is partly allowed. The Telephone Department will issue a fresh bill of 16.7.1998 for rental of that period only which shall be paid by the complainant within 15 days. The judgment and order passed by District Forum are modified to this extent. There will be no order as to cost. Let compliance of the order be made within a period of two months from the date of this order. Let copy as per rules be issued to the parties. Appeal partly allowed.