
(2001) 02 NCDRC CK 0047

In the National Consumer Disputes Redressal Commission

BHUPINDER SINGH

APPELLANT

Vs

GENERAL MANAGER, TELECOM

RESPONDENT

Date of Decision : 27-02-2001

Acts Referred:

Citation : 2001 2 CLT 372 : 2002 2 CPJ 336

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

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal filed under Section 15 of the Consumer Protection Act, 1986 (for short hereinafter referred to as the C.P. Act) against order dated 24.8.2000 passed by the District Consumer Disputes Redressal Forum-I, U.T., Chandigarh (for short hereinafter referred to as the District Forum-I) in Complaint Case No. 511 of 1997, Bhupinder Singh v. General Manager, Telecom, Sector 18, Chandigarh. The District Forum-I has allowed the complaint to the extent that it awarded a sum of Rs. 10,000/- as compensation to the complainant who stood deprived of the facility of telephone w.e.f. 24.2.1997. Besides the amount of compensation of Rs. 10,000/-, a sum of Rs. 2,000/- was awarded as costs.

2. THE complaint was filed on the allegations that the complainant/appellant Mr. Bhupinder Singh is a practising Advocate on Income Tax Side. He held a telephone No. 608142 installed at his residence No. 3583, Sector 35-D, Chandigarh under OYT Scheme. THE said telephone was disconnected on 24.2.1997 without any notice from the opposite party - General Manager, Telecom. A written representation was submitted by the appellant on 25.2.1997 and it was followed by another representation dated 10.3.1997 praying for the restoration of the telephone connection but no action was taken on these representations by the opposite party/respondent as a result of the disconnection of the telephone. THE complainant suffered financial loss, harassment and loss of reputation. He filed the complaint case before the District Forum-I and claimed damages to the extent of Rs. 1,35,000/- with interest @ 24% per annum from the date of filing of the complaint to the date of actual and physical realization of

the amount. THE appellant/complainant also sought direction to the opposite party to restore the said telephone connection. A reply was filed on behalf of the opposite party before the District Forum-I wherein it was not disputed that the telephone number 608142 was installed at the residence of the complainant and the payment of the bills were being made by the complainant. It was, however, pleaded that the complainant had given an undertaking of one Shri Sandeep Garg for making payment of his telephone bills. Pertaining to telephone Nos. 542849/702849 amounting to Rs. 18,909/- of the telephone for the aforesaid period but since the complainant failed to make the payment of those bills, hence his telephone connection was disconnected. In support of his case, the appellant/complainant filed his own affidavit and also the affidavit of Shri K.S. Puri. The opposite party filed affidavit of Shri R.L. Arora, Phone Inspector (D). The District Forum-I held that the action of the opposite party in disconnecting his telephone for no pending bills relating to that telephone amounted to deficiency in service resulting in physical and mental harassment and inconvenience to the complainant. It was held that the telephone connection of complainant bearing No. 608142 could not be disconnected for non-payment of bills relating to other telephone numbers 542849/702849. Only on the undertaking to pay the said bills for and on behalf of Shri Sandeep Garg as mentioned earlier, the District Forum-I awarded a sum of Rs. 10,000/- as compensation besides a sum of Rs. 2,000/- as costs of the complaint.

The complainant felt dissatisfied by the District Forum and has now filed this appeal under Section 15 of the C.P. Act. Notice of the appeal was issued to the respondent who put in appearance through Mr. G.C. Babbar, Advocate. The record of the complaint case was summoned.

3. WE have heard the appellant and the learned Counsel for the respondent. WE have also carefully perused the order under appeal and the record of the case. At the very outset, it may be pointed out that the respondent has not challenged the findings of the District Forum-I regarding the deficiency in service on its part. It has also not challenged the amount of compensation awarded by the District Forum to the tune of Rs. 10,000/- besides an amount of Rs. 2,000/- as costs. The precise controversy in this appeal is about the adequacy of the compensation awarded by the District Forum-I. It was contended on behalf of the appellant who have been adequately compensated for the period during which his telephone connection remained non-functional causing a lot of embarrassment, harassment and inconvenience to the appellant. It was contended by the appellant that the appellant had put in about 16 years of practice on Income Tax Side and had not been under default in making the payment of the bills relating to the use of the telephone No. 608142. In para 7 of the complaint, it was, inter alia, averred that the opposite party had failed to discharge his duty for which such deliberate and intentional negligence he should also be penalized separately for a sum of Rs. 10,000/-. It was also contended in para 8 that the opposite party should be stopped from charging rental charges w.e.f. 24.2.1997 till the date of restoration of service. It is now not in dispute that the telephone

aforesaid was restored during the pendency of the complaint case and as such the prayer regarding the restoration of the telephone connection relating to telephone No. 608142 has become infructuous. So far as the amount of compensation is concerned, a sum of Rs. 1,35,000/- has been claimed. Mr. G.C. Babbar, Advocate, learned Counsel for the respondent contended that there was no reasonable basis and evidence led specifically by the appellant/complainant to prove the actual loss and damages due to the non-availability of the telephone and, therefore, in the absence of any such evidence the amount claimed by the appellant could not be awarded. Mr. Babbar, Advocate defended the order of the District Forum-I and stated at Bar that the amount awarded by the District Forum-I had already been paid to the appellant. We have carefully considered the rival contentions and have perused the order of the District Forum and are of the considered view that there is no error in law or on fact committed by the District Forum in assessing the amount of compensation for a sum of Rs. 10,000/-. A perusal of the order under appeal will go to show that the opposite party was held not entitled to charge any rent for the period since the said telephone remained disconnected. Regarding the amount of compensation, the District Forum-I held in the last but one para as under : "As the complainant stood deprived of the facility of telephone w.e.f. 24.2.1997 and non-functioning of the telephone must have caused inconvenience to the complainant, so keeping in view the long period of disconnection, a sum of Rs. 10,000/- would be just and adequate to be awarded to the complainant besides Rs. 2,000/- as costs of the complaint. The complaint stands disposed of as such."

4. THE learned Counsel for the appellant contended that this Commission has in the case of District Manager, Telephones, Chandigarh v. S.K. Lamba, I (1999) CPJ 637=1999 (2) CLT 346, upheld the order of the District Forum awarding a sum of Rs. 5,000/- as compensation for the telephone which remained disconnected for four days. It was submitted that the District Forum in the instant should have awarded compensation on the basis of the rate of compensation that was awarded in the case of District Manager, Telephones v. S.K. Lamba (supra). Dealing with the grievance of the subscriber regarding his telephone remaining disconnected from 11.2.1993 to 15.2.1993 during the pendency of the complaint, the Commission observed in para 3 as under : "3. Another important grievance of the subscriber was that his telephone was disconnected from 11.2.1993 to 15.2.1993 during the pendency of the complaint. On behalf of the appellant it has been urged that the department has inherent power to disconnect a defaulter. THE issue of disconnection is to be considered according to the facts and circumstances of each case. THE case now in hand was not a defaulter. Here complaint of Shri Lamba, a practising Advocate was pending and the appellant could not justify this uncalled for disconnection of the residential premises of the subscriber. THE compensation awarded does not call for reduction of interference."

We may point out that the District Forum-I in the instant case duly considered the fact that the telephone of the appellant was disconnected for no valid reason

and it was on the basis of such a finding that the amount of compensation was determined. We are unable to uphold the submission of the learned Counsel for the appellant that the compensation should be computed on the basis of the compensation awarded in the case of District Manager, Telephones v. S.K. Lamba (supra). THE learned Counsel for the respondent has on the other hand relied on the judgment of the Hon''ble Consumer Disputes Redressal Commission, New Delhi reported in II (1995) CPJ 183 (NC), General Manager, Mahanagar Telephone Nigam Ltd. v. Mauli Chand Sharma. It was a revision petition decided by the Hon''ble National Consumer Commission. THE Hon''ble National Consumer Commission considered the question regarding the award of compensation and laid down, inter alia, in para 11 as under : "...THE term compensation signifies that which is given in re-compense, an equivalent rendered. THE compensation is only for the loss actually suffered and such compensation is not to be given for any equitable indulgence or for any remote or indirect loss. THE amount of damages that can be awarded by the Redressal Forums can never exceed the loss actually suffered by the complainant. THE quantum of damages have to be ascertained by Redressal Forums according to well laid down principles of law upon proof of the extent of the loss suffered by the negligence or breach of the duty of the opposite party. THE amount of damages must be established by the material with some reasonable certainty..."

Mr. G.C. Babbar, Advocate, learned Counsel for the respondent submitted that in the instant case, there was no material placed on record on the basis of which the amount of damages claimed by the appellant could be established with some reasonable certainty. THE District Forum-I in the instant case has already taken into consideration the grievances of the appellant and ascertained the compensation as Rs. 10,000/- as the complainant stood deprived of the facility of telephone w.e.f. 24.2.1997. In our considered view, the amount of damages awarded by the District Forum-I, U.T., Chandigarh has not been shown or proved by the material on record to be adequate or unjust. Resultantly, we find no merit in this appeal. THE appeal is dismissed. Costs of appeal shall however be borne by the parties themselves. Appeal dismissed.