
(1996) 04 NCDRC CK 0016

In the National Consumer Disputes Redressal Commission

Biren Kumar Jagadev

APPELLANT

Vs

Controller Of Examination Utkal University

RESPONDENT

Date of Decision : 09-04-1996

Acts Referred:

Citation : 1996 3 CPJ 225

Hon'ble Judges : P.C.MISRA , MRINALINI PADHI J.

Judgement

1. THE complainant in this case has claimed a compensation of Rs. 1,05,500/ - for the alleged deficiency in service on the part of the Controller of Examinations and the Vice -Chancellor of Utkal University who have been impleaded as opposite parties Nos. 1 and 2 respectively in this case. The complainant was a regular student of Banki College in +3 Arts class for the period 1985 -88. He appeared in the final Part III examination in 1989. Though the result of the said examination was published, the complainant's result was with -held and he learnt that he has been marked absent in the tabulation sheet. He made an application to the Principal of the College who recommended that the complainant had appeared in the examination on the subject in question. Even then when the result was not published, he filed a complaint before the State Commission which Was registered as C.D. Case No. 57 of 1991, claiming compensation of Rs. 1,10,750/ -. The State Commission considered the case with reference to the written version filed by the opposite parties and in an elaborate judgment passed in the said case, came to the conclusion that the complainant had appeared in the examination in question and the result was withheld for the deficiency on the part of certain employees of the University. The State Commission, however, refused to allow any compensation as the compensation claimed was for imaginary suffering. Though the complaint petition was allowed, no compensation was awarded, but an observation was made to the following effect: "However, in absence of materials, we do not award any compensation. If any complaint is received by us in future where clear actual or apprehended suffering is made out including the frustration of the actual plan for future life, we will not hesitate to award the compensation for rehabilitation of such

candidates in the society within the pecuniary limits we have." Taking advantage of this observation, the complainant has filed a fresh complaint alleging that he is entitled to a compensation of Rs. 1,05,500/ - under the following heads : (1) Anticipated salary at a minimum rate of Rs. 2,000/ - per month for 21 months Rs. 42,000/ - (2) Expenses for collecting materials running from the house to the Utkal University and preparation of memorandum for Consumer Redressal Forum Rs. 3,500/ - (3) For mental agony and depression for not being able to appear in C.A.S. and I.A.S. examinations and any other competitive examination Rs. 60,000/ - Rs. 1,05,500/ -

2. MR . U.N. Misra, the learned Counsel appearing for the complainant has strenuously argued that the last portion of the judgment (quoted above) permitted the complainant to file a second application and, therefore he having now furnished the materials on the basis of which compensation is claimed, this Commission should award the compensation taking into consideration the loss sustained by the complainant. We are, however, not impressed with the points urged by the learned Counsel for the complainant. In our opinion, the concluding portion of the judgment is a caution to the University that in future if such deficiency is made with a candidate suffering as a consequence of the deficiency on the part of the authorities, he would be allowed compensation if proper materials for evaluating the same are placed before the Commission. The said observation in our opinion does not amount to a leave to the complainant himself in the said complaint case to file a second complaint. In our opinion, successive cases cannot be initiated and carried on arising out of the same cause of action whether the Commission decided the case rightly or wrongly. A cause of action gets exhausted once the same reaches a finality after disposal of the case. We are, therefore, unable to award any compensation even if fresh materials are placed in a subsequent complaint petition. That apart, it has been recently held by the National Commission that a student appearing in the examination is not a consumer in relation to the University and therefore, even if it would have been a fresh complaint petition, it could not be entertained in a Consumer Forum.

3. IN the result, the complaint petition is dismissed, but without any costs. Complaint dismissed. ____