

(1995) 05 NCDRC CK 0053

In the National Consumer Disputes Redressal Commission

Chandrasekhar

APPELLANT

Vs

CHAIRMAN, INDIAN AIRLINES

RESPONDENT

Date of Decision : 16-05-1995

Acts Referred:

Citation : 1995 2 CPR 364 : 1995 3 CPJ 95

Hon'ble Judges : D.R.Vithal Rao , Susheela Cheluvaraju J.

Final Decision : Complaint dismissed

Judgement

1. IN this complaint the complainants have sought compensation in a sum of Rs. 2,00,000/- from the Opposite Parties-INDIAN Airlines for cancelling the flight from Bangalore to Mangalore on 20.11.89 without any prior intimation.

2. THE complainants purchased two Air tickets for the flight from Bangalore to Mangalore on 20th November, 1989 along with return tickets. THE flight was scheduled at 8.00 a.m. on 20th November, 1989. THE complainants reached the Airport and reported by 7.00 a.m. at the Airport. But to their utter surprise they found the flight cancelled. THE cancellation of the flight was published in the newspaper only on 20th November, 1989. THE complainants further averred that due to this cancellation of the flight without any advance information by the Opposite Parties they suffered heavy loss in the business and sought compensation in a sum of Rs. 2,00,000/- from the Opposite Parties. The Opposite Parties filed their version and admitted the fact that the flight from Bangalore to Mangalore scheduled to leave at 8.00 a.m.1 on 20th November, 1989 was cancelled. It further averred that it was cancelled due to the strike of the technical and engineering staff; as they were able to publish this fact only in the morning newspapers on 20th November, 1989. So the cancellation of the flight was purely an accidental one and it did not involve any negligent act on the part of the Opposite Parties. The material part of the averment of the Opposite Parties in this regard is at Para 3 of the version, which reads: "3. Flight No. IC 559/560 Bangalore-Mangalore-Bangalore was cancelled as from 20.11.89 till further notice. This fact has been published in local dailies datelined 19.11.89.

The Technical and Engineering Staff of the Respondents were on strike. The strike situation varied from station to station, and the Respondents were doing their level best to maintain flight schedules with whatever technical assistance was available on ground. This meant, rescheduling of some flights and cancellation of others depending on the ground situation in different stations. From the newspaper cutting produced by the complainants it can be seen that several flights were cancelled, some were restricted and the frequency of others were reduced. It is not as if the Bangalore-Mangalore flights were the only ones to be cancelled while rest of the flight schedules were normal. At all times, the paramount concern of the Respondents is the safety of the passengers and the crew. The Ground Engineering and Technical Staff have to check every aircraft for air-worthiness, before it is cleared for regular flights. On an average the Respondent's aircrafts remain airborne for about 10 hours a day covering more than one flight sector and touching several stations enroute. On touching down at the completion of one flight, the aircraft has to be subjected to the standard and routine check by the ground staff before it is cleared for the next flight. Any delay caused by technical snags or industrial action cannot only disrupt the flight schedules but also lead to cancellation of one or more flights."

The Opposite Party on the basis of these averments sought the complaint to be dismissed.

During enquiry the complainant filed the affidavit in evidence and got Exs. C.1 to C.3 marked in evidence.

3. WE heard the learned Counsel for the complainant and the Opposite Parties. WE have perused the pleadings of the parties. The Opposite Parties have stated that the cancellation of the flight from Bangalore to Mangalore on 20th November, 1989 was due to certain unavoidable reasons i.e., due to sudden strike of the technical and engineering staff of the Opposite Parties.

4. THE complainants have not produced any material on record to hold that the cancellation of the flight on 20th November, 1989 by the Opposite Parties was in any way due to negligence on the part of the Opposite Parties. The grievance i.e., the cancellation of the flight was on 20th November, 1989 and this complaint came to be filed on 20th November, . 1992, i.e., three years after the alleged occurrence. Having regard to this fact, this complaint is barred by time.

5. HAVING regard to these facts and in the circumstances of the case, we are constrained to hold that the complainants failed to prove the deficiency in service on the part of the Opposite Parties.

6. IN the result, therefore, this complaint fails and it is dismissed. The parties are directed to pay and bear their own costs. Complaint dismissed.