

(2006) 09 NCDRC CK 0020

In the National Consumer Disputes Redressal Commission

DELHI TRANSPORT CORPORATION

APPELLANT

Vs

Mukhtyar Singh

RESPONDENT

Date of Decision : 22-09-2006

Acts Referred:

Citation : 2006 4 CPJ 180

Hon'ble Judges : M.B.Shah , Rajyalakshmi Rao J.

Final Decision : Revision Petition dismissed

Judgement

1. HEARD the learned Counsel for Delhi Transport Corporation (DTC) and the respondent in person.

2. IN our view, this is not a fit case for the DTC for approaching this Commission. The case reveals high-handed action on the part of the concerned officers of the DTC. The State Commission has appropriately dealt with this aspect and pointed out that a very old and sick person was manhandled by the staff of the DTC on the ground that he failed to produce the certificate that he was a senior citizen. The complainant remained present before the State Commission and also before us today. Even a person having weak eye-sight can say that the complainant is a senior citizen and his age would be above 70 years. Despite this, he was asked to purchase a ticket for a sum of Rs. 10. The Senior Citizen Pass was snatched from him and he was manhandled. On that basis, he approached the various Authorities including the District Consumer Forum. In the appeal filed by the complainant, the State Commission finally accepted the contention of the complainant and observed that the grievances of such consumers are required to be considered in a broader perspective and not in malicious or with a mathematical details or precision. The Commission observed that the incident was immediately brought to the notice of a Senior Manager, DTC at Scindia House where he had specifically revealed that his senior citizen pass was shown to those ATIs but they retained the said pass and snatched Rs. 50 from him and insulted him, dragged him down and caused him injuries. His injuries as well as immediate complaint were sufficient proof of the say of the complainant.

In our view, the State Commission was fully justified in passing the impugned order on the basis of the ratio laid down by the Apex Court in Lucknow Development Authority v. M.K. Gupta, III (1993) CPJ 7 (SC)=(1994) 1 SCC 243. The legislation is a mile stone in the history of socio-economic legislation and is directed towards achieving public benefit. It attempts to remove the helplessness of consumer which he faces against "powerful business, described as a "network of rackets" or a society in which, "producers have secured power" to "rob the rest" and the might of the public bodies which are degenerating into storehouses of inaction Leaving the common man helpless, bewildered and shocked. We would quote some observations of the Court in the said case.

3. WHILE discussing the administrative law, the Court observed that : "The jurisdiction and power of the Courts to indemnify a citizen for injury suffered due to abuse of power by public authorities is founded on the principle that, "an award of exemplary damages can serve a useful purpose in vindicating the strength of law". An ordinary citizen or a common man is hardly equipped to match the might of the State or its instrumentalities. Nothing is more damaging than the feeling of helplessness. An ordinary citizen instead of complaining and fighting succumbs to the pressure of undesirable functioning in offices instead of standing against it."

Present case reveals that an aged senior citizen was not only manhandled but was required to approach one Forum or other or approach higher authorities for Redressal of his grievances and he could get justice only at the hands of the State Commission. No doubt, instead of succumbing to the pressure, we appreciate his courage of withstanding such agony.

4. THE Court in Lucknow Development Authority's case further held that when damage is required to be paid due to arbitrary or capricious behaviour then it loses its individual character and assumes social significance. "Harassment of a common man by public authorities is socially abhorring and legally impermissible." In such cases, the concerned officers are required to be penalized. It was, therefore, observed that : "The concept of authority and power exercised by public functionaries has many dimensions. It has undergone tremendous change with passage of time and change in socio-economic outlook." However, for reasons best known to them, our public authorities are not in a position to change their outlook in penalizing the officers who are not functioning properly. The Court also observed that- "It is unfortunate that matters which require immediate attention linger on and the man in the street is made to run from one end to other with no result. The culture of window clearance appears to be totally dead. Even in ordinary matters a common man who has neither the political backing nor the financial strength to match the inaction in public oriented departments gets frustrated and it erodes the credibility in the system."

5. THIS is what is sought to be conveyed and contended by the complainant and it is his say that this Revision Petition is filed at the behest of some higher officers having wide hands with the DTC having no restriction in spending public

funds for litigation-

6. FINALLY, the Court observed that - "It is, therefore, necessary that the Commission when it is satisfied that a complainant is entitled to compensation for harassment or mental agony or oppression, which finding of course should be recorded carefully on material and convincing circumstances and not lightly, then it should further direct the department concerned to pay the amount to the complainant from the public fund immediately but to recover the same from those who are found responsible for such unpardonable behaviour by dividing it proportionately where there are more than one functionaries.

In this view of the matter, the order passed by the State Commission cannot be faulted as it is in conformity with the law laid down by the Apex Court. The State Commission has exercised in a most equitable manner and in conformity with the spirit of the Consumer Protection Act.

Hence, this revision petition is dismissed. Revision Petition dismissed.