

(1993) 05 NCDRC CK 0060

In the National Consumer Disputes Redressal Commission

Department of Telecommunication

APPELLANT

Vs

GHANSHYAM SINGH RATHAUR

RESPONDENT

Date of Decision : 20-05-1993

Acts Referred:

Citation : 1993 0 CPC 633 : 1993 2 CLT 397 : 1993 2 CPJ 1175

Hon'ble Judges : S.S.Sandhawalia , Basanti Devi , S.Kulwant Singh J.

Final Decision : Appeal dismissed

Judgement

1. THE Department of telecommunication appeals against the order of the District Forum, Faridabad awarding compensation of Rs. 10,000/- in favour of the respondent-consumer and further directing the refund of the billed amount of Rs. 4,850/-. THE respondent consumer is an Advocate of some standing at Faridabad. He applied for a telephone connection way back on the 22nd of May, 1985 but it was not till the 20th of February, 1992 that the same was installed and made functional. However, to his consternation, it stopped working after 2/3 days and despite persistent written and oral complaints no heed was paid by the appellant-department to rectify the faults therein till nine months later on the 11th of November, 1992.

2. IN a somewhat cryptic reply filed on behalf of the appellant-department it was vaguely pleaded that the fault in the telephone was attended as soon as it came to the notice of the department. The suggested delay in rectifying the faults was that the office of the respondent remained locked during the day. In support of his case, the respondent examined PW1 Mr. Kunj Bihari Lal, an official of the appellant-department, Mr. R.P. Saini, Junior Engineer, PW 3 Amarjit Singh and the complainant himself stepped into the witness-box as PW 4.

The appellants treated the proceedings before the District Forum somewhat cavalierly and no serious challenge was posed to the testimony of the aforesaid witnesses and no evidence whatsoever was led on behalf of the department. What is more, no body chose to put in appearance to project the arguments in the case and appellant-department was therefore, proceeded ex-parte. Relying

upon the plethora of material before it in favour of the respondent the complaint was allowed in the terms noticed at the very outset. Mr. Rajesh Bindal, the learned Counsel for the appellants was somewhat at a loss to pose any meaningful challenge to the findings and the conclusions arrived at in the order under appeal. The somewhat curious plea taken was that appellants were not competently represented by a Counsel before the District Forum and Mr. Kunj Bihari Lal who was deputed to pursue the case had virtually colluded with the respondents in the conduct thereof and also in giving his testimony as a witness.

3. THE aforesaid submission has only to be noticed and rejected, it is somewhat manifest that the appellants have only themselves to blame for the poor conduct of the proceedings before the District Forum. THE respondent brought in conclusive evidence in support of his case which has virtually gone unchallenged. Admittedly no evidence has been led on behalf of the appellants to rebut the stand. Even a look at the written statement would indicate that no serious controversion of the allegation that the telephone had remained non-functional for almost nine months from 20th of February, 1992 to 11th of November, 1992, was in terms made. This stand is established from the statement of the appellants' own employee Mr. Kunj Bihari Lal and the unrebutted testimony of the complainant and his witnesses. THERE were as many as ten written complaints apart from the oral ones made on behalf of the complainant. THE District Forum was thus plainly right in holding in favour of the consumer and granting compensation for a prolonged non-functioning of a valuable facility like the telephone for nearly nine months which would obviously involve great hardship to a professional like the respondent. THERE is thus no merit in the appeal barring a marginal error which has crept in, with regard to the quantum of the refund of the billed amount noticed here-after. A reference to the bill Ext. P. 6 in question would indicate that after adjustment the net amount payable was Rs. 3,283/- only. The District Forum however, had directed a refund of the amount of Rs. 4,850/- which is apparently erroneous. Learned Counsel for the respondent Mr. Ram Chander fairly conceded that the charges included an installation charge of Rs. 800/- and since the telephone continued to be installed, the same was undoubtedly payable by the respondent. The relief with regard to the refund of the billed amount in Ex. P. 6 is consequently modified in the said terms.

4. FOR the foregoing reasons, this appeal is without merit and is dismissed with the marginal modification indicated above whilst leaving the parties to bear their own costs. Appeal dismissed.