

(2001) 07 NCDRC CK 0033

In the National Consumer Disputes Redressal Commission

DIRECTOR GENERAL (INVESTIGATION AND REGISTRATION)	APPELLANT
Vs	
JET AIRWAYS (INDIA) LIMITED	RESPONDENT

Date of Decision : 24-07-2001

Acts Referred:

Citation : 2002 2 CPJ 78

Hon'ble Judges : C.M.Nayar , R.L.Sudhir J.

Final Decision : Complaint disposed of

Judgement

1. THE Notice of Enquiry was issued under Section 36-B(d) read with Section 37 of the Monopolies and Restrictive Trade Practices Act, 1969 (hereinafter referred to as "the Act") read with Regulation 51 of the Monopolies and Restrictive Trade Practices Commission Regulations, 1991 for initiating an enquiry into the alleged trade practices on the part of the respondent, which were termed as "unfair and prejudicial to the public interest". THE preliminary investigation was conducted on the basis of the complaint dated 31st December, 1997 made by the original complainant against the respondent before this Commission and a Preliminary Investigation Report (PIR) has been filed by the DG. It was alleged in the complaint that the complainant had booked a "Y" Class ticket in Senior Citizen Concession Scheme (SCC) on 27th December, 1997 from Mumbai to Delhi by Flight No. 9W 351 scheduled for departure on 28th December, 1997. It is not in dispute that the complainant was wait-listed and he reached the airport on 28th December, 1997 and enquired about the status of his wait-listed ticket. THE complainant was stated to have been kept wait-listed though some other late comers and even last minute arrivals were accommodated by the respondent in the Economy Class in the flight. On inquiry, the complainant was informed that only two senior citizen concession tickets are confirmed per flight and the rest are wait-listed. THE complainant could not be accommodated in the Economy Class and he was asked to board the Club Class after paying the difference of Rs. 4,408/- which he willingly paid and travelled on the flight. THE short question which arises now for consideration is as to whether the respondent is guilty of unfair trade practices which can be termed as prejudicial to public interest as

alleged in the instant complaint.

2. REPLY to the PIR was filed on behalf of the respondent wherein it is categorically stated in paragraphs 6, 7 and 8 at pages 157 and 158 as under : "VI. It is submitted that the present "Senior Citizens Concessional Scheme", like many other such schemes, has been introduced by the respondent as a responsible corporate entity only to facilitate and give concession to the Senior Citizens. There is no "Unfair Trade Practices" involved as far as the said scheme, run by the respondent, is concerned. The respondents herein had made the said scheme available at all the Jet Airways (respondent) ticket counter, wherever the Airline has an office. VII. The booking for the complainant herein, Shri Balasaheb Vikhe Patil was kept wait-listed under Senior Citizens Concession Scheme as per the rules of the respondent on December 28, 1997 on respondents' Flight No. 9W 351, as the flight was booked to capacity. The only vacant seat against last minute cancellation which was available in "Club Premiere" class was offered to the complainant and only after obtaining the complainant's consent, the difference in fare, as applicable, was collected from him. VIII. In one of its letters dated 20.4.1998, the respondent has categorically replied to D.G's letter dated 20.3.1998 stating that as a rule only 2 passengers can avail of Senior Citizen's concession per flight which is based on respondent's "Internal Yield Management" requirement. However, depending on the booking profile of a particular flight, on several flights, the respondents herein have, in the past, confirmed and carried more than 2 passengers on the Senior Citizen Concessional Fare."

Subsequently, the respondent was directed to file an affidavit to state as to whether any other person who was similarly situated was accommodated in the flight by-passing the rights of the complainant to travel. An affidavit dated 6.2.2001 was filed by Shri Ashok Kumar Barimar on behalf of the respondent wherein it is stated in paragraphs 3 and 4 at page 331 as follows : "3. That I say and submit that on the concerned day, i.e. on 28.12.1997, our flight 9W 351 from Mumbai to Delhi was booked to its maximum capacity. The Selling Capacity of the said flight in the Economy Class, i.e. "Y" Class was 100 seats and that of the Club Class, i.e. "C" Class was 19 seats. I further submit that on 28.12.1997 the said flight had on board 100 passengers with confirmed booking in the Economy Class, i.e. "Y" Class with 3 infants. A true and correct copy of the Post Flight Report of flight 9W 351 of 28.12.1997 is marked and annexed hereto as Annexure "A".

I further submit that flight 9W 351 of 28.12.1997 had on board 19 passengers in the Club Class, i.e. "C" Class. It is submitted that out of the 19 passengers who travelled in the Club Class, 18 passengers had confirmed booking while one seat was vacant. It is on this vacant seat in the Club Class that the complainant, Mr. Vikhe Patil who had a wait- listed ticket was accommodated, which is shown at Sr. No. 122 in the Passenger Manifest of flight 9W 351 of 28.12.1997. A true and correct copy of the Passenger Manifest of flight 9W 351 of 28.12.1997 is annexed

hereto and marked as Annexure "B"." 4. We have heard the learned Counsel for the parties and perused the records. It is not in dispute that the complainant was a wait-listed passenger for the day of travel and it is also established that not a single passenger in the Economy Class, who did not have a confirmed ticket, was accommodated in the flight. Therefore, it is contended that no wait-listed passenger could be accommodated in the flight. In view of the same, the complainant was offered a Club Class ticket which he accepted and he boarded the flight after paying some extra charges. In view of these facts, we do not find any prima facie act of unfair trade practices on the part of the respondent in this case. The complainant has, however, filed the terms and conditions for Senior Citizens fare at page 137 of the complaint and after going through the same, we find that it is nowhere stated that senior citizens are only entitled to two concessional tickets on each flight. It will be proper that the respondent airline will incorporate that condition and make it clear to avoid ambiguity in case the respondent airline is still continuing its scheme for senior citizens. In the light of the above, the present complaint stands disposed of and accordingly the Notice of Enquiry stands discharged. There shall be no order as to costs on the facts and in the circumstances of the case. Complaint disposed of.