
(2001) 02 NCDRC CK 0001

In the National Consumer Disputes Redressal Commission

Director General Investigation And Registration	APPELLANT
Vs	
Times Of India	RESPONDENT

Date of Decision : 16-02-2001

Acts Referred:

Citation : 2001 2 CPC 329 : 2001 3 CPJ 51

Hon'ble Judges : K.K.SRIVASTAVA , P.K.VASUDEVA , DEVINDERJIT DHATT J.

Judgement

1. DIRECTOR General Manager, Department of Telecom, Sector 18, Chandigarh (appellant No. 1) and Sh. Ashok Kumar Sharma, J.T.O. Panchkula (appellant No. 2) filed this appeal under Section 15 of the Consumer Protection Act, 1986 (for short hereinafter to be referred as the C.P. Act), against the order dated 19.10.2000 passed by the District Consumer Disputes Redressal Forum -I, U.T., Chandigarh (for short hereinafter to be referred as the District Forum -I), in Complaint Case No. 456 of 1997 filed by the respondent, Mr. S.M. Verma, Advocate, H. No. 367, Pipliwala Town Manimajra (Chandigarh) against the appellants. The District Forum -I allowed this complaint and awarded a sum of Rs. 7,000/- for deficiency in service and mental and physical harassment with costs of Rs. 1,000/-. The respondent/complainant, Mr. S.M. Verma, Advocate alleged in his Complaint No. 456 of 1997 that his telephone could not be installed for 8 months and even after that the telephone remained out of order for a long period but without any tangible reasons. The respondent/complainant prayed that he be awarded compensation of Rs. 50,000/- and expenses incurred upon the complaint upto Rs. 1,000/-.

2. AGGRIEVED against the order of the District Forum -I, the present appeal has been attempted by the appellants namely, Director General Manager, Department of Telecom, Sector 18, Chandigarh and Sh. Ashok Kumar Sharma, J.T.O. Panchkula. It has been averred in the complaint that a telephone connection was sanctioned to him on 27.6.1995 on priority basis. The Advice Note was issued on 4.9.1295 but the telephone was installed only on 1st April, 1996 after a delay of 7 months at his residence -cum -office, a copy of the sanctioned letter is

attached with the complaint as Annexure -1. It has been alleged in the complaint that after the installation of telephone the same remained out of order intermittently since 8.9.1996 till filing of the complaint upto April, 1997. The complainant had to write number of letters and met officers of the Telecom Department a number of times and also served a legal notice upon the appellants but all the efforts of the respondent/complainant could not fructify, hence he alleged deficiency in service on the part of the appellants. In reply the appellants admitted that a telephone was sanctioned on the priority basis on 27.6.1995 and Advice Note was issued to the appellants on 4.9.1995 but the telephone was installed only on 1.4.1996 after 7 months. The appellants averred that the area was technically not feasible. It was made feasible by providing 1+7 system in the month of March, 1996 and the connection was provided by providing drop wire as the telephone was sanctioned by the Honble Telecommunication Minister, Govt. of India on priority basis. In all the 8 short paragraphs of the reply, the appellants had only averred that the complaint regarding the non -functional telephone was set right as and when it was received. It has also been averred that no harassment was caused to the respondent/complainant. As such he is not entitled to any compensation and it was prayed that the complaint should be dismissed.

3. THE appeal was filed in the Commission on 12.12.2000 and the notice of the appeal was issued to the respondent. Record of the complaint case was summoned from the District Forum -I. The matter regarding the condonation of delay in filing the appeal came up for hearing on 2.3.2001. The appellants sought condonation of delay under Rule 8, Sub -rule (4) of the Chandigarh Consumer Protection Rules, 1987 (for short hereinafter referred to as C.P. Rules, 1987) on the grounds, inter alia, that the copy of the order appealed against was received by the appellants on 8.11.2000 from the Office of the District Forum -I. Thereafter the matter was put up to SDE (Legal) on 9.11.2000 for obtaining opinion in respect of the judgment under appeal. The legal opinion was received on 22.11.2000 and the matter was put up before D.G.M . (Admn.) on 27.11.2000 through D.E. (Legal). The D.G.M. Administration submitted the matter with his observation to the Principal General Manager on 30.11.2000 through Director, Finance/General Manager, Finance who cleared the file on 5.12.2000. The Principal General Manager, Telecom after considering the entire matter took a decision for filing the appeal against the judgment of the District Forum -I and he directed to issue certain instructions to the concerned unit of the department. It was on 8.12.2000 that the Government Standing Counsel was asked to file appeal along with the application for condonation of delay and for stay. The Government Standing Counsel handed over papers after duly drafting the Memo of Appeal to the department on 11.12.2000. It has been urged that 9th and 10th December were closed days of the department. It was under these circumstances that delay of 3 days occurred in presenting the appeal before this Commission. Thus averments made in the application are duly supported by affidavit of Sh. O.N. Thakur, Divisional Engineer Telecom (Legal) working in the Office of

Principal General Manager Telecom, Chandigarh.

4. UPON issuance of notice the respondent, Sh. S.M. Verma put in appearance and filed reply by way of his affidavit to the application seeking condonation of delay. The main plea raised in the reply affidavit is that the appellants have filed the appeal after the expiry of period of limitation only to harass him intentionally and mala -fidely. The application seeking condonation of delay was condoned with costs of Rs. 100/ - by the order of this Commission dated 2.3.2001. We have heard the learned Counsel for the appellants, Mr. G.C. Babbar, Advocate and the learned Counsel for the respondent, Mr. Bahadur Singh, Advocate. We now proceed to examine the rival contentions of the parties.

5. IN appeal, the learned Counsel for the appellants, Mr. G.C. Babbar, Advocate contended that the present case was a particular connection to be granted and did not fall in the bulk release. He further contended that although the Advice Note was issued on 4.9.1995 but due to the area being technically non -feasible, the telephone could be provided only on 1.4.1996 after the area became feasible. It is not the case of the complainant that any junior to him in the same area has been provided telephone prior to the complainant. Simply issuance of the Advice Note without pre -checking of the feasibility cannot amount to deficiency in service. It has also been argued that as and when the fault of any telephone after the installation occurred the same was rectified within short time as per the procedure laid down in the Telephone Department.

6. THE District Forum -I dealt with the complaint case in sufficient detail. It has dealt with the Rules which were referred by the respondent/complainant on page 3 of the order regarding the technical feasibility, which is reproduced as under : "Technical Feasibility" "A report of the technical feasibility will be obtained in all cases. This technical feasibility will be verified by an official not lower in rank than a Junior Engineer. The technical feasibility report will have to be furnished by the field staff within seven days. A feasibility register will be maintained exchange -wise in respect of all connections. The register will be examined by the inspecting officers who should check upto 5% of the non -feasible reports subject to a maximum of 100 cases or all cases whichever are less. All cases reported non -feasible should be reviewed by the Sub -Divisional Officer and 10% of them checked by the District Engineer. In case of bulk release, feasibility should be checked before hand. OBs advice notes issued only in respect of feasible cases while skipping over the non -feasible cases and intimating to all such skipped over parties."

Complaint has also referred to letter No. 2 -21/76 -PHA dated 8.4.1976 of opposite party, relevant portion of which reads as under : "Advice notes for installation of telephones should be issued within 7 days of the receipt of payment of the demand note and the actual installation should be done within 7 days after issuance of the advice note."

7. THE District Forum -I has also noted that on perusal of the aforesaid rules/

instruction which speaks eloquently that the advice note was issued and all other formalities were completed and telephone was required to be installed or it is after the issue of advice note. So when advice note had been issued, presumably all other formalities stood completed, but still telephone was installed in the instant case after 7 months of the issue of advice note which proves deficiency in service on the part of the appellants. The District Forum -I has also dealt with number of letters which are placed on record regarding the lodging of defective telephone services when it remained out of order intermittently for a long time.

8. AFTER hearing the learned Counsel for both the sides, we find that the telephone connection was granted to the respondent/complainant, Mr. S.M. Verma, Advocate by the Ministry of Telecom on priority basis and the Department gave the connection after a delay of 7 months through dropwire connection even when the technical feasibility was not available, which could have been given immediately within 24 hours. This is a clear case of deficiency of service on the part of the appellants. In view of the foregoing discussion, we are of the considered view that the appeal lacks merit and is resultantly dismissed. Appeal dismissed.