

(1998) 04 NCDRC CK 0065

In the National Consumer Disputes Redressal Commission

DISTRICT MANAGER, TELEPHONES

APPELLANT

Vs

G.M.PIARA LAL BEHAL And BROS

RESPONDENT

Date of Decision : 15-04-1998

Acts Referred:

Citation : 1998 1 CPC 612 : 1998 2 CLT 50 : 1998 2 CPJ 291

Hon'ble Judges : A.L.Bahri , Jasbir Singh , Davinder Kaur Bhamrahs J.

Final Decision : Appeal dismissed with costs

Judgement

1. THIS appeal is by the Telephone Department challenging order of District Forum dated August 12,1996 whereby it was held that disconnection of the telephone of the complainant-G.M. Piara Lal Behal effected on March 22,1993 was illegal and thus amounted to deficiency in rendering service. The complaint was allowed with costs of Rs. 1,000/- with the direction to the Telephone Department to restore the telephone within 10 days and refund all the payments received after deducting amount of bill dated February 1,1993 for Rs. 266/- with interest @ 15% per annum till payment. A sum of Rs. 5,000/- towards compensation was also allowed.

2. THE dispute is only with respect to disconnection of telephone No. 42117 of the complainant effected on March 22,1993. As per case of the complainant, the amount of bill, on account of non-payment of which the telephone was disconnected, was paid through Cheque No. 318002 whereas according to the plea of the Telephone Department the said cheque was not encashed and was returned by the Clearing House and was allegedly sent to the complainant. Disconnection was effected after giving information on telephone about non-encashment of the cheque. The question as to whether there was deficiency in rendering service in the matter of disconnection effected on March 22, 1993 is dependent on the fact as to whether cheque was sent to the proper Bank for clearance. The cheque was returned by the Punjab National Bank, Putligarh Branch with the reason "Not drawn on us". In fact the cheque was drawn on Punjab National Bank, Tunda Talab Branch. Admittedly the said cheque was never

sent to Tunda Talab Branch of the Punjab National Bank. In appeal, Counsel for the parties were called upon to produce certificate from the Bank, which had issued Cheque No. 318002. Such a certificate has been produced from Punjab National Bank, Tunda Talab Branch, Amritsar that the cheque was issued by that branch in C.A. No. 165 in the name of G.M. Piara Lal Behal and Bros. Thus, it would appear that the cheque was not sent by the Telephone Department/Post Office for clearance to Punjab National Bank, Tunda Talab Branch, Amritsar. The error may be either on the part of the Post Office or on the part of the Clearance House that the said cheque was not sent to the proper branch for clearance, but on that account the telephone was factually disconnected on March 22, 1993. The Post Office or in that sense the Clearance House acted as agent of the Telephone Department for whose account the amount of the cheque was to be credited ultimately. The Telephone Department was thus not justified in effecting disconnection of the telephone, more so when it was known that cheque was returned by the Bank with the endorsement as referred to above. It would have verified even at that stage and to represent the cheque again to the appropriate branch of the Bank. Deficiency in rendering service is, therefore, writ large in the circumstances stated above.

The further question is as to what relief could be granted to the complainant. Obviously, when disconnection is held to be illegal, the Telephone Department was not entitled to charge rental for the subsequent period. It is argued by Mr. Babbar, Counsel for the Telephone Department that before permanent disconnection is effected the rentals were required to be paid by the subscriber to get the telephone restored within a period of one year. Be that as it may, the position would have been as stated above, if telephone had been rightly disconnected to enable the consumer to get it restored within a year on payment of rentals. However, when there has been a deficiency in rendering service by effecting disconnection of the telephone wrongly, the complainant is not supposed to pay rentals for the subsequent period. The order of the District Forum in that respect directing refund of the rentals charged subsequently is thus fully justified.

3. MR. Babbar further states that as per bill of June, 1993 the amount of Rs. 266/- was shown in the arrears and even at that stage the amount was not deposited and therefore, no compensation should be allowed to the complainant as has been done by the District Forum by awarding Rs. 5,000/-. This contention cannot be accepted. Once deficiency has been found to be on part of the Telephone Department and the subscriber has been harassed, he is to be compensated. It is stated that upto today the telephone has not been restored. Thus grant of compensation as awarded by the District Forum is justified. Finding no merits in the appeal, the same is dismissed with costs of Rs. 1,000/-. Appeal dismissed with costs.