

(1996) 03 NCDRC CK 0001

In the National Consumer Disputes Redressal Commission

Distt Engineer Telecommunications Deptt

APPELLANT

Vs

ROSHAN LAL AGGARWAL

RESPONDENT

Date of Decision : 14-03-1996

Acts Referred:

Citation : 1996 1 CPJ 335 : 1996 2 CPC 206 : 1996 2 CPR 148 : 1997 1 CLT 159

Hon'ble Judges : V.BALAKRISHNA ERADI , B.S.YADAV , S.S.CHADHA ,
R.THAMARAJAKSHI , S.P.BAGLA J.

Judgement

1. THIS Revision Petition has been filed by the District Engineer and the Accounts Officer of the Tele communication Department, Bharatpur, Rajasthan against the order of Rajasthan State Consumer Disputes Redressal Commission in Appeal No. 1022 of 1994. Vide this Order the Rajasthan State Commission has awarded Rs. 5,000/- on account of loss and another sum of Rs. 5,000/- for mental distress and agony caused by the disconnection of telephone No. 22985 installed at the residence of Shri Roshan Lal Aggarwal, respondent here in. The disconnection of the telephone No. 22985 has been held as arbitrary by the State Commission.

2. BRIEFLY the facts are that there are two telephones -one bearing No. 23357 in the premises of Shri Ganesh Industries and Oil Mills, Bharatpur and another No. 22985 installed at the residence of Shri Roshan Lal Aggarwal who is the Manager of this Mill. There was an outstanding bill in the sum of Rs. 1,77,414/- in respect of telephone charges for the telephone Nos. 23357 installed in the Mill. However, there was no outstanding bill on the telephone No. 22985 installed at the residence of Shri Roshan Lal Aggarwal. As the outstanding bill for telephone No. 23357 was not paid, the Telecommunication Department disconnected both the telephones. The District Forum held that this disconnection was valid in accordance with Rule 443 of the Indian Telegraph Rules. This Rule provides that if on or before the due date the rent or other charges in respect of telephone service provided are not paid by the subscriber in accordance with the Rules, or bills for charges in respect of calls (local and trunk) or phonograms or other dues from the subscriber are not duly paid by him, any telephone or telephones or any telex service rented by him may be disconnected without notice. The significance

of the word "subscriber" was noted by the State Commission particularly while setting aside the order of the District Forum. It was held by them that the Ganesh Industries and Oil Mills, Bharatpur, was not a subscriber of telephone No. 22985; subscriber for this telephone was Shri Roshan Lal Aggarwal in his personal capacity. As there was no outstanding against Shri Roshan Lal Aggarwal, the subscriber of telephone No. 22985, the action of the Telecommunication Department in disconnecting his telephone was not in accordance with Rule 443 and hence was arbitrary. We have carefully perused the records of this case and heard the learned Counsel appearing for the petitioner as well as the respondent. We do not find any error of fact or jurisdiction in the order of the State Commission and therefore, do not want to interfere with this Order except in regard to the award of compensation. The State Commission has awarded Rs. 5,000/- for the loss which the subscriber suffered on account of disconnection and a compensation of Rs. 5,000/- for mental distress and agony caused by the arbitrary action of the Telecommunication Department. In our view, compensation could be awarded as a relief only for the arbitrary action of the Telecommunication Department and not any sum for the loss for which no basis has been indicated in the order of the State Commission. We, therefore, modify the Order of the State Commission to the extent of reducing the total amount of compensation to the respondent herein to Rs. 5,000/-

3. WE find in a number of cases that such arbitrary action of the Department, which is not in accordance with Rules is primarily the decision of a particular official and not a collective thinking on the part of the Departmental officials. We have therefore observed in a number of cases that it would be wrong to burden the public funds for the payment of compensation for the arbitrary action of a particular officer of a Government Department or a public sector institution. We, accordingly, direct that the sum of Rs. 5,000/-, which we hold to be an adequate compensation for the respondent should be recovered from the emoluments of the concerned official for which purpose the responsibility may be fixed after due enquiry by the Department. There is no order as to costs. Ordered accordingly.