

(1999) 05 NCDRC CK 0046

In the National Consumer Disputes Redressal Commission

D.K.GUPTA

APPELLANT

Vs

GENERAL MANAGER (SOUTH), MAHANAGAR TELEPHONE
NIGAM LTD.

RESPONDENT

Date of Decision : 28-05-1999

Acts Referred:

Citation : 2000 2 CPJ 53

Hon'ble Judges : S.K.Parthasarathy J.

Final Decision : Compensation Application dismissed

Judgement

1. THIS disposes of the application filed by Shri D.K. Gupta, New Delhi under Section 12B of the Monopolies and Restrictive Trade Practices Act, 1969 (for brief the Act) seeking compensation from the respondent. Mahanagar Telephone Nigam Limited (MTNL), New Delhi on the ground that the latter indulged in unfair trade practices.

2. IN his compensation application the applicant has stated that he kept his telephone with No. 6428852 in safe custody with the respondent from July, 1993 onwards with 100% payment of rent. After paying the telephone bills regularly the applicant requested the respondent to restore the telephone vide his application dated 2.5.1995. The telephone was finally restored on 17.9.1995 after the applicant making several visits to the respondent's office and meeting officers at different levels. Since there was no response to the letters addressed by the applicant to the General Manager (South) of the respondent asking for refund of rent paid for the period of delay as well as compensation for the inconvenience, the applicant approached the Telephone Adalat of the respondent which ordered refund of the rental charges. No financial compensation was paid. The respondent filed a reply to the compensation application in which it has pointed out that there was no representation made by it with regard to the re-installation of the telephone in safe custody by any particular date. A rental rebate for the period 2.5.1995 to 16.5.1995 has already been given to the applicant. The delay in reinstallation of the telephone was due to administrative

reasons. After pleadings were complete, the following issues were framed : (1) Whether the respondent has indulged in the unfair trade practices as alleged in the CA ? (2) Whether the applicant has suffered any loss or damage as a consequence of the alleged unfair trade practices ? (3) Relief.

Both the parties filed affidavit of evidence and counter-affidavit of evidence reiterating the points made by them in the compensation application and the reply thereto. Both the parties agreed that the case may be decided on the basis of records and it was not necessary to examine any witness.

3. THE applicant had kept the telephone in safe custody of the respondent. He was to pay the rental charge for the telephone during the period of safe custody. While the respondent is obliged to reinstall the telephone when a request is made by the applicant no evidence was led by the applicant to show that the respondent made any representation regarding the period within which the telephone would be reconnected after an application to that effect is made. In the compensation application the applicant had stated that when the application was made the AGM (Commercial) of the respondent "assured that the telephone will be restored by 10th May, 1995". In the absence of any clear representation on the part of the respondent that telephones kept in safe custody will be reinstalled at the request of the subscribers within a specified period it will not be possible to hold in this case that the respondent has indulged in any unfair trade practice. Obviously it is the responsibility of the respondent to provide efficient service to the consumers. It is however not difficult to see that there can be unavoidable situation where there could be delay in providing service. In this particular case it is seen that the Telephone Adalat of the respondent has looked into the facts of the case and ordered the refund of the rental charges for the entire period commencing from the date of application for restoration till the date of reconnection of the telephone even though the applicant as per agreement is to pay the rental charges when the telephone is kept under safe custody. THE inconvenience caused to the applicant was also regretted. Having regard to the facts and circumstances of the case, I hold that the respondent has acted fairly and cannot be construed to have indulged in any unfair trade practice falling within the meaning of Section 36A of the Act. While the applicant will be entitled to claim compensation only where there is a finding that the respondent indulged in an unfair trade practice, the applicant has not even justified how he could claim compensation calculated at Rs. 500/- per day for the period of delay in installation of the telephone when the concerned telephone was admittedly used for non-commercial purpose. To sum up, I hold that the respondent has not indulged in unfair trade practice. The compensation application filed by the applicant deserves to be and is hereby rejected. There is no order as to costs. Compensation Application dismissed.