(2002) 06 NCDRC CK 0044

In the National Consumer Disputes Redressal Commission

DOORSANCHAR MANDAL ABHIYANTA — APPELLANT

Vs

NAMI CHANDRA JAIN — RESPONDENT

Date of Decision : 10-06-2002

Acts Referred:

Citation : 2003 1 CPJ 339 : 2003 2 CPC 509 : 2003 2 CPR 329 : 2003 3 CLT 314

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna , Rachna J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against the judgment and order dated 14.8.1992 passed by District Consumer Forum, Etawah in Complaint Case No. 180 of 1992. Briefly stated the facts of the case are that the complainant was a consumer of telephone No. 638. After the change of telephone exchange machinery its number was converted to 2018. The complainant uses telephone himself. The complainant had applied for non-STD telephone but STD was energised in his phone. The Telephone Department was requested to disconnect STD but STD was not disconnected. Hence the complainant had to get its telephone disconnected. The complainant had been paying the bills since 16.11.1987. Before STD his bill for the period 16.2.1988 to 15.4.1988 was for Rs. 666/-. Even after the STD was disconnected he received a bill from 16.4.1988 to 15.8.1988 for Rs. 5,885/-. The complainant made several complaints to the Telephone Department for correction of the bill but nothing was done. Thereafter the complainant filed the complaint before District Consumer Forum.

2. THE opposite party in its written version has alleged that the bill was corrected and 1600 calls were reduced. Parties led their respective evidence before the District Consumer Forum who after considering the facts of the case came to the conclusion that there was deficiency on the part of the opposite party and directed the opposite party to charge only Rs. 1,332/- from the complainant.

Aggrieved against this judgment and order the Telephone Department has come in appeal.

3. NONE was present for the parties even inspite of notice. A perusal of the file goes to show that till STD was not connected the complainant had received bill for Rs. 666/- but STD connection was energised after the telephone number was changed without consent of the complainant. Even on the request of the complainant STD was not disconnected and ultimately the complainant got his telephone disconnected. In the present case when the complainant had made a complaint it was the duty of the opposite party to have enquired into the matter but no inquiry was done. It has not been mentioned by opposite party why STD was energised in the telephone of the complainant.

4. IT may be mentioned that a Circular No. A-59/1985 T.R. dated 9.4.1986 was issued by the Telephone Department in which it has been mentioned that the Telephone Department has been criticised very severelly on account of excessive billing. In order to solve this problem, it was provided that where the calls are shown on a very higher side, then the department should be vigilant. IT has also been mentioned in it that it is just possible that some employees of the Telephone Department might have, in collusion with other subscribers, inflated the bills of the subscribers. IT was also provided that the metering circuit should be checked and the points where there is a chance for manipulation by the employees should be very strictly watched. IT has further been provided that the Telephone Department should also make inquiries as to whether there was any unusual activity or any festival at the residence of the subscriber which has accounted for the spurt in the calls. The contents of this circular clearly go to show that the employees in collusion with other subscribers inflate the telephone bills of genuine subscribers on account of which the subscribers as well as the Telephone Department has to face difficulty. This circular clearly enjoins the duty on the employees of Telephone Department that if there is any spurt in the calls, then the reading should be taken at the interval of 15 days and if the spurt continues then the circumstances under which this spurt has occurred should be enquired into even by visiting the place of a subscriber whose bills are in dispute. The matter does not end here. There is a provision for a similar kind in the Post and Telegraph Manual, paras 434 and 435. A perusal of these paras goes to show that the Telephone Department has indicated in these paras the possibilities which may occur on account of which there may be a spurt in the calls. It also provides that if there is an STD connection with the subscriber and the bills for double the amount of last three bills are received, then that bill should be cancelled and it should be split into two bills and one bill should be tendered to the subscriber for payment and the remaining amount should be kept pending for inquiry. After the inquiry is done, then only the final bill should be sent. In the circular dated 9.4.1986 it has further been provided that if the telephone has been kept under observation and any inspection of the site has been done, then a report should be prepared and if the department finds that there was mistake in the billing, then the relief should be given to the subscriber. It also provides that the result of the inquiry should be communicated to the subscriber. In the present case we find that no inquiry was held because no plea has been taken by

the Telephone Department that any inquiry was held. According to the circular itself, it is mandatory that an inquiry should be held and the result of the same should be communicated to the subscriber and only after making the inquiry, the final bill should be issued. This shows that the Telephone Department has laid down a particular procedure which has to be followed in case a complaint is received from the subscriber that the bill has been issued for a higher amount. The learned District Forum has correctly come to the conclusion that no inquiry was made in the present case on the complaints made by the complainant. As a matter of fact the Telephone Department is more interested in flouting these provisions than to follow these instructions.

5. RELIANCE can be placed on the case of Mahanagar Telephone Nigam Limited v. West Cost Industries & Anr., Vol. II (1998) CPJ 18 (NC). In this case the National Commission had an occasion to consider the spurt of calls when the telephone number was changed. The National Commission came to the conclusion that after the change of telephone number, bills of huge amounts were received by the complainant and the appellant, meaning thereby the Telephone Department, sent stereo-typed letters which do not show whether the contention of the respondent (complainant) made in the complaint has been considered by it. The National Commission did not rely on stereo-typed reply of the appellant and rejected the version of the Telephone Department.

6. SIMILARLY in the case of Telecom District Manager, Mehasana & Anr. v. Patel Shankarlal Kevalram, II (1996) CPJ 99 (NC), the National Commission has again considered this issue and has stated that the guidelines that under which circumstance this spurt has occurred should be enquired into even by visiting the place of subscriber whose bills have been issued by the Telephone Department for disposal of excess meter rent must be complied with. It has been held that the action taken must include, (1) meter reading to be taken every fortnight, (2) identifying all subscribers whose current fortnightly readings show a sudden spurt, and (3) in case of such sudden spurt being noticed, placing the telephone line on observation and deputing responsible staff to the subscriber''s premises to check up that there has been no special occasion which might have given rise to such spurt. It was further observed by the National Commission that the meter remains under the control of the department and not under the control of the subscriber. If there is any dispute about the correctness of the metering equipment, the department should produce objective basis for proving that the metering equipment was not defective and in the light of the fact that the availability of STD on the said phone had not resulted in inflated calls for the periods prior to and subsequent to the period relating to the disputed bill, it becomes incumbent on the part of the petitioner-department to substantiate and establish with evidence that the metering equipment was in fact not defective. It was further held by the National Commission that it becomes incumbent on the department to substantiate the cogent evidence that the metering equipment was in fact not defective. Thus we find that the appeal has no force and is liable to be dismissed. ORDER The appeal is dismissed. The judgment and order

passed by District Consumer Forum are confirmed. Let copy as per rules be made available to the parties. Appeal dismissed.

