
(1994) 09 NCDRC CK 0011

In the National Consumer Disputes Redressal Commission

DWIJABAR SWAIN, ASSISTANT CIVIL SUPPLIES OFFICER

APPELLANT

Vs

SANTHOSH KUMAR PANDA

RESPONDENT

Date of Decision : 22-09-1994

Acts Referred:

Citation : 1995 1 CPJ 472 : 1995 2 CLT 210

Hon'ble Judges : P.C.Misra , Biswanath Rath , Mrinalini Padhi J.

Final Decision : Appeal allowed

Judgement

1. THIS appeal is at the instance of the Opp. Party No. 4 in Consumer Dispute Case No. 25 of 1991 against the order passed by the District Consumer Disputes Redressal Forum, Kalahandi. The respondent claimed compensation of Rs. 577.50 paise from the present appellant as well as others for the deficiency of service alleged to have been committed by the appellant. The facts leading to the aforesaid Consumer Dispute Case as stated in the impugned order are as follows:- The complainant is a ration card holder in the municipal area of Bhawani patna. The ration card was issued to him by Opp. Party No. 3 & Opp. Party No. 4, namely, Sub-Collector, Bhawanipatna and Assistant Civil Supplies Officer, Bhawanipatna respectively. Opp. Party No 5 is the dealer in respect of the area for distribution of the essential commodities. The complainant's allegation is that he did not get wheat from the retail shop of Opp. Party No. 5 for about 20 days for which he had to incur extra expenses of Rs. 27.20 paise for purchasing wheat from open market. He has also claimed compensation of Rs. 500/- for the suffering he had and also a sum of Rs. 250/- for purchase of medicines. His case is that Opp. Party No. 5, the retail dealer had deposited the required amount of money for lifting wheat for which an issue order was necessary to be passed by the Assistant Civil Supplies Officer, Opp. Party No. 4. But due to negligence of Opp. Party No. 4, he could not lift the wheat. Therefore, he could not supply the wheat to the ration card holders like the claimant. The Opp. Parties denied their liability before the District Forum. The District Forum after considering the facts and circumstances of the case held that Opp. Party No. 4 alone is liable to pay the compensation of Rs. 27.20 paise representing extra cost which the

complainant had to pay for purchase of wheat from out-side. Being aggrieved by the aforesaid order, the appellant has filed this appeal.

2. BEFORE going into the merits of the matter, the Commission wanted to be satisfied as to whether or not the complainant is a consumer in relation to the present appellant against whom compensation has been awarded by the District Forum. The admitted position is that the claimant is a ration card holder who is entitled to purchase wheat from the retail shop of Opp. party No. 5 on payment of price thereof. It is Opp. Party No. 5 who brings wheat by virtue of the issue order passed by Opp. Party No. 4 and thereafter he supplies the same on payment of price to the retail purchasers. Thus, the claimant had no relationship as a consumer with Opp. Party No. 4 at all. He has neither paid for purchase of any article from Opp. Party No. 4 nor has paid to avail of any service from him. Thus, in our considered opinion, the claimant was not a consumer in relation to Opp. Party No. 4 in the transaction in question. Even otherwise, we are not satisfied that the compensation awarded is supportable. It appears from the findings recorded by the District Forum on materials placed before it that after the deposit of money by Opp. Party No. 5, the issue order was passed and issued on 13.1.91 by Opp. Party No. 4 in favour of the Opp. Party No. 5 to lift wheat who did not lift the same till 24.9.91. It is the plea of Opp. Party No. 5 that wheat was not in the stock for which reason he was not supplied wheat when he demanded for the same on some days. This fact has not been established before the District Forum. Thus, Opp. Party No. 4 cannot be held to be liable for any deficiency whatsoever even in relation to the transaction with Opp. Party No. 5. We, therefore find no justification in the order passed by the District Forum in awarding compensation against Opp. Party No. 4.

In the result, the appeal is allowed, the order of the District Forum is set aside. There would, however, be no order as to costs of this Court. Appeal allowed without costs.