
(1993) 04 NCDRC CK 0123

In the National Consumer Disputes Redressal Commission

GANESH LAL BAGRI

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 06-04-1993

Acts Referred:

Citation : 1993 2 CPR 136 : 1993 3 CPJ 1246

Hon'ble Judges : Jyotirmoyee Nag , Sunil Kanti Kar , S.Dutta J.

Final Decision : Complaint allowed with costs

Judgement

1. THE case of the Petitioner is that he is the subscriber of Telephone No. 6065 installed at Bikaner, that the cyclic bills used to come around the minimum rental charges but since August 1989 the periodical bills were used to be drawn by the Respondent exorbitantly high and for the 10th cycle 1989 the Telephone bill was raised at Rs. 86,568/- and for 12th cycle 1989 it was raised for Rs. 18,693/-. THE complainant Petitioner although paid the Telephone bill for 8th cycle 1989 underprotest but he could not pay the bills for Oct."89 (10th cycle) for Rs. 86,560/- and December, 1989 (12th cycle) for Rs. 18,693/- as it was not possible for him to pay the said highly excessive bills. THE Petitioner on receipt of the said impugned bills for 10th and 12th cycle 1989 immediately wrote to the Divisional Engineer, Telephone to seal the out-going lines of the Telephone of the Petitioner and to observe the position for a fortnight and inspite of the Telephone being sealed the bill for 12th cycle 1989 was drawn for Rs. 18,693/-. It was also the allegation that after dialing 1 or 2 digits of the Code the Meter starts recording calls though the call does not materialise at all and to that effect the Petitioner annexed xerox copy of the P.C.O. Marked *A*. It is further allegation of the Petitioner that repeated attempts have to be made to get a number and then caller has to pay charges for advance call even if the calls does not materialise and the caller has to pay several times more than the actual call recorded during the matured call. It is also alleged that the S.T.D. calls would go on recording Meter unless it is repeatedly knocked down to stop it. It was very difficult for the subscriber to ascertain whether the S.T.D. Meter was still recording calls after receiver was put down. It is also alleged that even after

putting down the receiver, the Meter would not stop recording calls and it would go on advancing and in some occasion this would continue for several hours. THE Petitioner brought all these defects to the notice of the concerned authority. It was further alleged that the Telephone of the Petitioner remains dead for sometime and against starts functioning after several hours and some of Petitioner's friends reported him that his line has been working elsewhere as the calls made to the Petitioner would have been received by some stranger on the other side. THE Petitioner recorded all those defects in his complaint with the authorities. THE petitioner used the Telephone for domestic purpose only not for business purpose.

2. IN the aforesaid circumstances the petitioner repeatedly requested the concerned authorities to refer the dispute to the arbitration but in vain. Subsequently the Petitioner received a Demand Notice for Rs. 1,05,621/- against the alleged arrear bills for 10th and 12th cycle 1989 and for subsequent cycle, and due to non-payment of the said sum of Rs. 1,05,621/- the telephone line of the Petitioner was disconnected. The defence statement of the opposite party are very formal in nature mainly confined on the point of maintainability.

We observe that the Petitioner made a serious allegation against the defective functioning of the telephone vis-a-vis defective recording of the Meter calls even at the time of the telephone line remaining dead. In spite of repeated complaints made to the telephone authorities by the Petitioner no action was taken to set the telephone line and meter in order. It is also to be noted that the Petitioner used to pay the telephone bills prior to 8th cycle 1989 around the rental charges but it sharply rose to such exorbitant high amount from 10th cycle 1989 and such sharp rise in the telephone bills is unbelievable to us in the facts and circumstances of the case. The OPs in their written statement have not the allegation of defective meter equipment. It is also curious to note that the Petitioner having desired to refer the matter to arbitration as per provision of Telegraph Act the opposite parties did not pay any heed to the said suggestion of the petitioner and disconnected the telephone line in arbitrary and illegally and that disconnection was also made without notice to the Petitioner. The aforesaid actions of the opposite parties are most highly handed and mala fide. In the case of Divisional Manager, Lucknow v. Madhu Enterprises, Lucknow, reported in II (1991) CPJ 579 (NC), The National Commission has been pleased to hold where there is an evidence, direct or circumstantial to show that the Metering equipment was defective or by the telephone has been misused by the Departmental Staff this Commission can fix the number of calls on the basis of average calls made during the previous period of disputes. The similar view was held by the State Commission, Karnataka in the case of the General Manager, Bangalore Telecom v. Captain K.C. Nair, reported in 1992 (1) C.P.R. Page No. 331. Relying on those decision and Upon sound evidence of defective Metering equipment we could have decided the disputed bills for 10th and 12th cycles 1989 here and now but as the Petitioner has preferred to refer the matter to the Arbitration we approve the suggestion.

3. AS regards the contention of the opposite parties about maintainability of this complaint before this Commission because of the dismissal of the complaint by the District Forum, Bikaner. We observe that due to lacking in pecuniary jurisdiction the complain before the Bikaner District Forum was dismissed but that does not create any bar to file a fresh complain before the commission in view of the fact that the part cause of action arose within jurisdiction and pecuniary limit of the case well entitles this Commission to entertain it. Accordingly the complaint petition is allowed and direct the opposite parties to restore the telephone line after setting defective metering equipment and line in right within 3 weeks from the date of communication of this order.

4. WE also direct the opposite parties to make a reference of the dispute to the Arbitrator for adjudication of the disputed bills 8th, 10th and 12 cycles 1989 on the basis of Petition of complaint. We award the sum of Rs. 1,000/- for harassment, mental agony and towards cost 8of this proceeding payable by the opposite parties to the Petitioner/ Complainant. Complaint allowed with costs.