(2000) 02 NCDRC CK 0064

In the National Consumer Disputes Redressal Commission

GENERAL MANAGER, DEPARTMENT OF TELECOMMUNICATION	APPELLANT
Vs	
BALBIR SINGH MAKOL, PRESIDENT, N.C.A.. GROUP	RESPONDENT

Date of Decision : 10-02-2000

Acts Referred:

Citation : 2000 2 CLT 91 : 2000 2 CPC 166 : 2000 2 CPJ 457 : 2000 3 CPR 128

Hon'ble Judges : J.B.Garg , P.K.Vasudeva , Devinderjit Dhatt J.

Final Decision : Appeal dismissed

Judgement

1. DISTRICT Forum-II has granted compensation for harassment to the complainant Balbir Singh Makol, for having been deprived of use of his telephone from February, 1992 to September, 1995 and again from October, 1996 to February, 1998 (5 years) and imposed a consolidated damages of Rs. 25,000/- upon the General Manager Telephones. Apart from that, it also ordered that the excess amount paid by the complainant under bill of July, 1995 be refunded to the complainant alongwith interest at the rate of 12% per annum from the date of payment till refund. Aggrieved against this order, the respondent GMT has attempted this appeal.

2. BRIEFLY, the complainant-Balbir Singh Makol having telephone No. 44324 (now No. 554005) applied to the appellants for shifting of his telephone from Sector 23 to Motor Market Complex, Mani Majra, his place of work in May, 1991. The appellant replied in July, 1991 saying that the area was technically non-feasible and his request had been put at Sr. No. 39 and that the telephone will be shifted as soon as the area becomes feasible. It was alleged that surprisingly, in the meantime, two employees of the department approached the complainant and demanded Rs. 500/- for immediate shifting of his telephone but the complainant was not willing to promote such an unfair practice. In January, 1992, he approached the appellant again and was told that his telephone has been disconnected for non-payment of bill of June, 1991 for Rs. 518/-. The complainant paid the bill on 22.1.1992 and intimated the department through his letter dated 28.1.1992. In February, 1992 the complainant received another

letter saying that the telephone could not be shifted for non-payment of dues and the telephone stood closed since 24.7.1991. A request was again made by the complainant, but the reply was given to him that his file was not traceable. The complainant wrote a number of letters but all went fruitless. In June, 1995 the complainant met the General Manager personally who directed him to meet Shri P.K. Sinha, then Director of Finance, who took up the matter and called for the file. In the meantime, the complainant received another bill for Rs. 6,272/- for the period from 1.9.1991 to 31.8.1995 which obviously shocked the complainant. On the representation of the complainant, the bill was held in abeyance and the telephone was shifted on 6.9.1995 and started working on 23.9.1995 but the complainant did not receive any bill. He wrote to the department in March, 1996 and August, 1996 for non-receipt of bills but neither the bills nor reply thereto was received. His telephone was however, again disconnected without any prior notice. He started getting monthly rental bills which he paid upto 15.4.1997 and his telephone was disconnected. The complainant claimed a compensation to the tune of Rs. 3.00 lacs for the loss of business and harassment, Rs. 5,000/- costs of complaint and the direction to the appellant to activate his telephone immediately and supply him copy of the enquiry made by the department. In reply, the appellants have admitted a few facts but denied the material averments. It has been stated that the area where the telephone was required to be shifted was technically non-feasible because it involved shifting of telephone from one Exchange to another and the complainant was informed accordingly. The advice note of shifting of telephone was issued on 4.10.1991 but it was returned with the remarks that the telephone stood closed due to non-payment of bills. The complainant was advised through letter dated 6.2.1992 to contact the Accounts Officer to clear the outstanding amount and finally when his bills were received the restoration slip was issued by the Accounts Officer on 25.7.1995 and the Advice Note dated 14.8.1995 was given for shifting of telephone. The telephone was finally shifted and installed on 2.9.1995. Thereafter it was on 27.9.1996 that the complainant was informed on the telephone that the pending bills be paid and the telephone was closed on 9.10.1996. The appellants have averred that it was basically the responsibility of the complainant to get the bills and clear the dues. The delay has been caused because he had not paid his telephone bills in time.

We consider it pertinent to refer to para No. 16 of the affidavit filed by the complainant, dated 1.3.1999 in which it has been alleged that he has been burdened with a bill of Rs. 1,15,000/- for the period from 16.8.1997 to 15.10.1997 which was brought to the notice of the department on 9.1.1998. The relevant para No. 16 reads as under : "16. That para 11 of my original complaint, I had sent reminders dated 5.3.1996, 17.8.1996 and 12.10.1996 to the department for not sending me the bills. The telephone was once again closed on 9.10.1996 without any registered notice. I paid all the bills on 20.9.1997 under protest including restoration charges of Rs. 105/- and the same was intimated to the department vide my letter dated 29.9.1997. I was informed by Mr. Prem

Sharma and Ashok Sharma that the current will be released within 7 days. The phone was lying dead since 9.10.1996 and to my utter surprise I received a bill for Rs. 1,15,000/- for the period 16.8.1997 to 15.10.1997. This was brought to the notice of the department on 9.1.1998. Copy of letter dated 12.10.1996 is annexed herewith."

3. THIS plea has not been controverted and it goes to show that since long the appellant had been suffering. The several important instructions contained in Government of India, Ministry of Communication, Department of Telecommunication bearing No. 4-59/86-TR dated 9.4.1996 addressed to all the Heads of Telecom Circles/Districts, have not been followed and the repeated and continuous deficiency on the part of the appellant is writ large. It has been asserted by the respondent, who appeared in person, that his original telephone was knowingly made available to a PCO holder who was carrying out his business on commercial lines and attempt was made to fasten the bill of such a huge amount on him, though the department was compelled to drop that latter on. Further, it is essential on the part of the appellants that before disconnecting the telephone, it must give sufficient warning to the consumer so that corrective measures can be taken by him and his business does not suffer on this count. This also shows that complainant had not only been harassed by disconnecting his telephone a number of times for no fault of his, but also the department had been vindictive in dealing with the consumer.

4. AFTER hearing the learned Counsel for the parties and perusing the record, this Commission is of the opinion that the deficiency on the part of the appellants is writ large. The Commission does not consider it appropriate to interfere with the impugned order. There is no merit in this appeal nor there is any good ground for reduction in the amount of compensation awarded to the sufferer-complainant, through pressed here. Consequently, the appeal fails and is hereby dismissed. Appeal dismissed.