

(1999) 04 NCDRC CK 0043

In the National Consumer Disputes Redressal Commission

GENERAL MANAGER, TELECOM DEPARTMENT, JALANDHAR

APPELLANT

Vs

VEENA KAPUR

RESPONDENT

Date of Decision : 30-04-1999

Acts Referred:

Citation : 1999 2 CLT 555 : 1999 3 CPJ 140 : 2000 2 CPC 62

Hon'ble Judges : A.L.Bahri , Jasbir Singh , Davinder Kaur Bhamrahs J.

Final Decision : Appeal dismissed with costs

Judgement

1. THIS appeal is by the Telecom Department and the challenge is to the order of the District Forum, Jalandhar dated June 17,1998. A direction was given by the District Forum under the impugned order to the Telephone Department not to charge any rent for the period the telephone of the complainant remained disconnected and to pay compensation of Rs. 5,000/- for mental agony, harassment and inconvenience caused. Further, department was left to recover the amount of compensation from the erring official.

2. VEENA Kapur, the complainant was having telephone No. 262255. Her husband Nand Kumar Kapur was earlier having another telephone No. 4844 at his business premises M/s. Kay Kay Industrial Corporation, of which Nand Kumar was the proprietor. Against the aforesaid telephone, there were arrears for the period April, 1991 to October, 1993 amounting to Rs. 23,471/-. On account of such dues the aforesaid telephone was disconnected on December 29, 1993. It was on June 6, 1995 that on the application of VEENA Kapur the telephone No. 262255 was allotted. Since Nand Kumar did not pay the arrears in spite of best efforts made by the Telephone Department, a notice was issued to the complainant, VEENA Kapur, to pay the same. At one stage, she also agreed to pay the amount. Hence, a letter was written to her to pay the same on November 28,1997. Since she did not pay the same, her telephone No. 262255 was disconnected on January 9,1998. Subsequently, the same was restored on February 20,1998. This action of the Telephone Department in illegally disconnecting the telephone of the complainant was challenged before the

District Forum and claim for compensation was also made. The Telephone Department contested the complaint, inter alia, asserting that their action was justified and was under the rules (Rule 443). The plea of the Telephone Department was not accepted by the District Forum that the impugned order was passed. In appeal, learned Counsel for the Telephone Department has raised two questions; one, that the disconnection of the telephone was proper, and secondly, the quantum of compensation granted is highly excessive. It is argued by Mr. G.C. Babbar, Advocate for the Telephone Department that disconnection of the telephone was after serving notice under Rule 443 and was, therefore, legal. This contention cannot be accepted. Learned Counsel has referred to certain decisions of the High Court where High Court declined to interfere under Article 226 of the Constitution. Photocopies of such judgments were produced. Civil Writ Petition No. 1220 of 1988 of Delhi High Court decided on August 12, 1998. Writ Petition No. 5863 of 1987 of Madras High Court in S. Thangam v. The Area Manager (South), Madras Telephones, Madras, decided on September 4, 1987. Writ Petition No. 8008 of 1986 decided by Madras High Court in Zarina Begum v. The General Manager, Telephones, Madras and Writ Petition No. 33 of 1989 in Rita Kumari v. Mahanagar, Telephone Nigam Limited, decided on November 12, 1990 by Delhi High Court.

The powers of the High Court are very vast under Article 226 of the Constitution and if no substantial injustice is noticed, the High Court may refuse to interfere in the matter. No rule of law in the judgments referred to above can be followed as a precedent holding that for the arrears of one telephone belonging to a particular person, the telephone of another person can be disconnected. Such a question under the Consumer Protection Act has also been raised and decided in Shri Satish Kumar v. Mahanagar Telephone Nigam Limited through its General Manager, 1997 (2) CCC 163 (DS), by Delhi State Commission directing the Telephone Department not to disconnect the telephone of the complainant. The complainant had three telephone connections at the shop and one of them was in the name of his wife at the residence. Arrears of that telephone were due and the matter was referred to Arbitrator and the proceedings were pending there. Since the Telephone Department threatened to disconnect other telephones on that account, the matter was before the Delhi State Commission ultimately. The matter was also decided by the National Commission in District Engineer Telecommunications, Department & Anr. v. Roshan Lal Aggarwal, 1986-1996 Consumer 1993 (NS). The complainant was having two telephones one installed at the mill and the other at the residence. There was outstanding bill against the telephone at the mill, however, telephone department disconnected both the telephones on that account. The action of the Telephone Department in disconnection the telephone at the residence was not in accordance with Rule 443 and was held to be arbitrary. In the facts of the present case, the telephone in the name of the wife has been disconnected on account of earlier arrears due in respect of the telephone installed in the name of her husband which had been disconnected. The action of the telephone department cannot be justified under

the law. The District Forum rightly held so.

3. SINCE the telephone of the complainant remained disconnected for about 1 months, the inconvenience caused to the complainant can well be imagined. The grant of compensation of Rs. 5,000/- is not at all excessive to interfere in the appeal. For the reasons stated above, this appeal fails and is dismissed with costs of Rs. 500/-. Appeal dismissed with costs. _____