

(1999) 11 NCDRC CK 0086

In the National Consumer Disputes Redressal Commission

GENERAL MANAGER, TELECOMMUNICATION DEPARTMENT

APPELLANT

Vs

M.M.MUTHUSAMY

RESPONDENT

Date of Decision : 02-11-1999

Acts Referred:

Citation : 2000 1 CPJ 76

Hon'ble Judges : M.S.Janarthanam , Pulavar V.S.Kandasamy J.

Final Decision : Appeals disposed of

Judgement

1. IN these two actions, the subject matter of dispute is relatable to excess collection of rental charges for the telephone installed to the concerned subscribers. The telephone connections in both these actions had been given to the respective complainants in the same area and also on one and the same date. This apart, the opposite parties are one and the same though the complainants are different and distinct parties. The rental charges claimed for both the subscribers-complainants are one and the same and the claim had been made on the footing that their residence is beyond 5 kms. from the telephone exchange.

2. BOTH the complainants-subscribers appear to have made representations, say, within a reasonable time of the installation of their respective telephones, which event happened in the year 1993, to the opposite parties that they collected excess telephone rental charges though their residences are situated within the radius of 5 kms. range from the telephone exchange. Apart from the individual representations made by the individual subscribers-complainants to the opposite parties, the District Consumer Council had also made a representation to the opposite parties. The representations so made to the opposite parties proved futile, in the sense of their not taking any action. In the counter objections filed by the opposite parties, they had admitted the excess rental charges collected from the subscribers-complainants and they were also prepared to adjust the excess amount collected by way of adjustment in the subsequent bills. It is an admitted fact that the so called adjustment of excess

rental charges collected never took place even till upto the date of delivery of the orders by the District Forum in the respective complaints. It is crystal clear from the records that though the representations had been made by the respective subscribers-complainants that excess rental charges had been collected from them right from the date of installation of the telephone, which event happened in 1993, the opposite parties did not at all care to verify the distance of their residences from the telephone exchange and the excess charges if any collected is ordered to be refunded to the subscribers-complainants or getting adjusted in the future bills. Such a long delay on the part of the opposite parties in not heeding to the representations of the complainants-subscribers is definitely deficiency in service on the part of the opposite parties. It is in that view of the matter, the Forum below passed an order, the operative portion of which is getting reflected in paragraph 11 of the respective orders. The operative portion is one and the same in both the orders and therefore it is suffice for us to pen down paragraph 11 of one of the orders. It is as below : "In the result, the petition is allowed and the opposite parties are directed to refund the excess amount of Rs. 100/- collected from the complainant from the date of installation of the telephone till date with interest @ 12% p.a. till the date of payment and also pay a sum of Rs. 1,000/- towards damages and Rs. 500/- towards costs within two months from the date of receipt of this order, failing which the complainant will be at liberty to proceed against the opposite parties under the relevant provisions of the Consumer Protection Act."

Learned Counsel Mr. S. Srinivasan, appearing for the appellants/opposite parties in both the actions would strenuously contend that the portion of the order which is fixing the responsibility on the person who is responsible for charging the complainants at the higher rate of Rs. 100/- as getting revealed in paragraph 10, is not proper on the facts and in the circumstances of the case. He would further state that such an order would mean fixation of the responsibility on the Accounts Officer who is the 2nd opposite party in both these actions. To the meaning as understood by learned Counsel with regard to that portion of the order as we have stated earlier, we are not affixing our seal of approval. We would clarify that all the opposite parties are responsible for the collection of excess rental charges from the respective complainants-subscribers. Therefore the compensation of Rs. 1,000/- and cost of Rs. 500/- in each of these actions must be collected from all the opposite parties 1 to 4 and if the amount had been paid from the public exchequer to the complainants already, we direct that the same must be collected from all the four opposite parties in equal portions and remitted to the exchequer. The order of the Forum below in both these actions is modified to the extent as indicated above. Both the appeals are thus disposed of, but in the circumstances of the case, we make no order as to costs when especially learned Counsel for the respondents is not present to project his hues of views. Appeals disposed of.