(2000) 12 NCDRC CK 0031

In the National Consumer Disputes Redressal Commission

GIRIRAJ KUMAR APPELLANT

Vs

AIRCEL DIGILINK INDIA LIMITED RESPONDENT

Date of Decision : 20-12-2000

Acts Referred:

Citation : 2001 1 CLT 699 : 2001 1 CPC 407 : 2001 1 CPJ 23 : 2001 1 CPR 29

Hon'ble Judges : R.K.Anand , Moksh Mahajan J.

Final Decision : C.A. disposed of

Judgement

1. A complaint petition as well a compensation application under Section 12B of the MRTP Act, 1969 were filed by the applicant/complainant charging the respondent with adoption of and indulgence in unfair trade practices. During the pendency of these two proceedings, the complaint petition was disposed of as withdrawn at the instance of the applicant/complainant by virtue of this Commission''s order, dated the 31st May, 2000. Thereafter, the compensation application alone remained pending for adjudication and is being disposed of by this order.

2. THE grievance of the applicant as indicated in the aforesaid compensation application is that the applicant subscribed to a Mobile Telephone connection No. 9828012676 on 23rd December, 1997 under the ''One Year Scheme'' of the respondent and payment of the bill raised by the respondent for the period from 1.6.1998 to 30.6.1998 amounting to Rs. 2,788.33 was to be made by 20th July, 1998 but the mobile phone in question was disconnected on 6th July, 1998. It has been further complained that the aforesaid bill dated the 5th July, 1998 was received on 6th July, 1998 and the due date for its payment as indicated in the bill itself was 20th July, 1998. THE grievance of the applicant is that the telephone in question was deactivated w.e.f. 6.7.1998 by the respondent before the expiry of the time limit indicated in the bill itself and it was tantamount to deficiencies in service and attracted the relevant provisions of Section 36A(1) of the Act. A notice in respect of the aforesaid compensation application was issued to the respondent and in its reply thereto, it denied the charge of adoption of and

indulgence in unfair trade practices.

On completion of pleadings, the following issues were framed : (i) Whether the respondent is or has been indulging in unfair trade practice as alleged in the compensation application ? (ii) Whether the applicant/complainant has suffered any loss or damage due to these trade practices ? (iii) Relief, if any.

3. NO oral evidence was led by either of the parties as they are placing reliance only on documentary evidence. The case of the respondent is that the mobile telephone facility was disconnected due to the failure of the applicant/ complainant to pay Rs. 1,000/- which was the advance payment for the month of July and was to be paid in the month of July itself. We have considered the submissions made by both the learned Advocates and also perused the Court record. Even though the payment of this amount was required to be made in the beginning of the month, as contended by the learned Advocate for the respondent, the fact remains that this amount is also reflected in the bill dated the 5th July, 1998 the payment for which was required to be made by the due date of 20.7.1998. In other words, the applicant could make the payment in question on or before this date and the respondent was required, according to the time limit indicated in the bill in question, to wait till 20th July, 1998 before deactivating the mobile telephone connection. The disconnection of the telephone prior to that date and before the expiry of the due date, to our mind is tantamount to deficiencies in service and constitutes an unfair trade practice adopted by and indulged in by the respondent. Therefore, the issue No. 1 is answered in the affirmative and as a consequence the applicant/complainant is entitled to the following compensation : (a) Cost of arranging another mobile telephone amounting to Rs. 7,970.00. It may be mentioned here that in support of the claim, the applicant has submitted the bills amounting to Rs. 6,930.00 and Rs. 1,040.00. As no evidence has been led in support of the claim of compensation of Rs. 50,000/-, the same is, therefore, not being allowed. (b) The cost of litigation amounting to Rs. 5,000/- as claimed by the applicant is also allowed as the applicant is represented by an Advocate and the amount of Rs. 5,000/- appears to be reasonable.

The respondent is thus directed to pay an amount of Rs. 7,970/- as well as Rs. 5,000/- as indicated above and comply with the order within six weeks and also file an affidavit by way of compliance. C.A. disposed of.

