

(1990) 08 NCDRC CK 0002

In the National Consumer Disputes Redressal Commission

G.M., B.E.S.T., BOMBAY

APPELLANT

Vs

MILIND G. DIXIT

RESPONDENT

Date of Decision : 28-08-1990

Acts Referred:

Citation : 1991 0 CPC 698 : 1991 2 CPJ 581

Hon'ble Judges : G.G.Loney , M.G.Gavai , Elipe Dharma Rao J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal filed by the BEST Undertaking against the Order dated 16.5.1990 passed by the District Forum, Bombay. The facts of the case are that the respondent Milind Dixit travelled by the BEST bus and was charged excess fare by the conductor of the bus. When this was objected to by the respondent, the conductor used insulting words and when asked to show the fare card declined and when Dixit told him that he was paying on previous occasions Re. 1/- only as the bus fare the conductor charged him that he must have cheated the undertaking by paying less fare on previous occasions. Feeling hurt the respondent had demanded compensation of Rs. 5,000/- from the Undertaking for the mental injuries, injustice and the humiliation he suffered at the hands of the conductor. Being dissatisfied with the action of the Undertaking, the respondent approached the District Forum. The District Forum in their ex-parte order have held that there was negligence on the part of the conductor in recovering excess fare of Re. 0.25 and in not showing or verifying the fare from the fare table and the Forum awarded the compensation of Rs. 342/-to the respondent.

2. THE appellant has come up in appeal against the above order. We have given careful consideration to the arguments of the learned Counsel of the Undertaking. THE main thrust of the argument of the Counsel was that there was no negligence involved on the part of the conductor. THE complaint of the respondent was duly enquired into by the undertaking and as it was found to be true, the Conductor was held guilty and was punished with "censure". THE excess fare of twenty five paise was returned to the respondent by the BEST

undertaking. According to the learned Counsel, the grievances of the respondent were fully redressed and therefore the Forum ought not to have entertained such minor complaint particularly when there was no negligence on the part of the conductor. THE Counsel further stated in the course of her argument, that at best, the conductor could be said to be discourteous to the respondent when he refused to show the fare card when demanded. We are not at all impressed by the argument of the Counsel in this regard. THERE was certainly misconduct on the part of the conductor when he insulted the respondent. By the rules of the BEST undertaking the conductor is required to maintain the fare card and he is also duty bound to show the fare card to a commuter if demanded. This forms part of service to be rendered by the Undertaking and if it is not done, the inaction would amount to negligence. THE District Forum has in our opinion rightly held that there was deficiency in service and negligence on the part of the conductor. There are few other points in the appeal memo which we would like to refer to. The appellant has stated that petty complainants like the one of the respondent should not have been entertained by the Forum. It is further contended that the Consumer Protection Act, 1986 has been enacted to deal with complaints of only serious nature or when there is gross negligence. We are amazed at this reading of the Act by the appellant. Nowhere in the Act is it mentioned that the Forum should deal with only when there are "serious faults" or "gross negligence". We would not like to comment harshly on such interpretation of the Act and would only say that the Act has been framed to give protection and redress to an aggrieved consumer whether he has a complaint of petty or gross nature.

Another ground of appeal is about the ex parte order passed by the Forum. It is an admitted fact that the notice of the Forum was served on the BEST Undertaking to give their version. Instead of replying the Undertaking filed the notice and did not reply to the notice. The action of the District Forum therefore to proceed ex parte is perfectly legal as per the provisions of the Consumer Protection Act, 1986 and Rules thereunder.

3. THE appellant's contention about the order of the District Forum being not legal and proper because it is signed by only two members instead of three has no force or validity as there is no bar in the Consumer Protection Act or Rules made there under to two members deciding the complaint. Considering all the above points, we come to the conclusion that the order passed by the District Forum Bombay was just reasonable and proper and hence it is upheld. Appeal dismissed.