

(2016) 10 NCDRC CK 0091

In the National Consumer Disputes Redressal Commission

Case No : 1242 of 2015

KAMAL KISHORE AGRAWAL

APPELLANT

Vs

JET AIRWAYS INDIA LIMITED, & ORS.

RESPONDENT

Date of Decision : 28-10-2016

Acts Referred:

Citation : 2017 2 CPR 854

Hon'ble Judges : Ajit Bharihoke, S.M. Kantikar

Advocate : Anis-Ur-Rehman, Nitin K Gupta

Final Decision : Petition dismissed

Judgement

1. This revision is directed against the order of the State Commission Maharashtra dated 10.03.2015 whereby the State Commission allowed the appeal preferred by the respondent opposite parties against the order of the District Forum Raipur, set aside the said order and dismissed the complaint.

2. Briefly stated, the facts relevant for the disposal of the revision petition are that petitioner Kamal Kishore filed a consumer complaint before District Forum Raipur alleging that he and his father had purchased return tickets for travel from Mumbai to Raipur. They were supposed to travel on 07.02.2011 on flight no. 0377 of the opposite party airline. It is the case of the complainant that he along with his father on reaching airport and completing the formality of obtaining boarding pass and security check came to the waiting hall of the airport at 5.35 a.m. At around 6.05 am, the complainant and his father went to the washroom for relieving themselves. On coming out of the washroom to the waiting hall, the complainant came to know that boarding gate no.13 meant for their flight was closed five minutes earlier and complainant and his father immediately reached at the gate and requested the employees of the opposite party to permit them to board the flight but they were not allowed to do so. According to the complainant, no announcement or intimation regarding closing the boarding gate was made, which amounts to deficiency in service. Hence the complaint.

3. The opposite parties in their written statement denied the allegations on merits. It was pleaded that boarding of subject flight from Mumbai to Raipur was started at 5.46 hours and was closed on 6.13 hours. According to the opposite parties, the complainant alongwith his father obtained boarding pass at 5.44 hours and they did not bother to board the flight within the stipulated time. If the complainant and his father failed to board the flight because they had gone to the washroom for relieving themselves, it cannot be treated as deficiency in service on the part of the opposite party.

4. The District Forum on consideration of the pleadings and evidence allowed the complaint and directed the opposite party as under:

"a. The OPs will pay the amount of Rs.44000/- and interest @ 18% from 15.04.2011 till the date of payment

b. The OPs will also pay Rs.100000/- for mental harassment to the complainant.

c. The OPs will also pay Rs.10000/- as the cost of the suit."

5. Being aggrieved of the order of the District Forum, the opposite party approached the State Commission in appeal. The State Commission after hearing the parties and on consideration of the record came to the conclusion that complainant and his father missed the flight because of their own fault and they have not been able to prove that boarding gate was closed five minutes before the schedule time. The State commission thus allowed the appeal, reversed the finding of the District Forum and dismissed the complaint. This led to the filing of the revision petition.

6. Learned Shri Mohd. Anis-ur- Rehman, Advocate for the petitioner has contended that impugned order suffers from material irregularity because the State Commission has failed to appreciate the facts correctly. It is submitted that State Commission has failed to appreciate that boarding gate was closed five minutes earlier and no announcement for closing of the boarding gate was made.

7. Learned counsel for the respondent on the contrary has argued in support of the impugned order. On careful consideration of the pleadings and evidence, we do not find any fault with the impugned order. On perusal of photocopies of boarding passes in favour of the complainant and his father , we find that as per the printed time, departure of the subject flight on 07.02.2011 was 6.35 a.m.. It is printed on the boarding pass that boarding gate shall be closed 25 minutes prior to the departure, meaning thereby that time of closing of the boarding gate was 6.10 a.m. As per the allegation in the complaint, the complainant and his father went to the washroom to relieve themselves at 6.05 a.m. and when they came back, they found that boarding gates were closed. The complainant and his father obviously must have taken few minutes to relieve themselves. Therefore, it is clear that when they came back from the washroom, boarding gates were closed as per the scheduled time. The plea of the petitioner that boarding gates were closed five minutes before the schedule time is obviously belied by the fact

that petitioner and his father admittedly went to the washroom at 6.05 a.m. It is not the case of the petitioner that when they went to the washroom, boarding gates had already been closed. Thus, under the circumstances, we do not find any fault with the finding of the State commission which is based upon rational appreciation of the evidence.

8. In view of the discussion above, we are of the opinion that petitioner has failed to point out any jurisdictional error or material irregularity in the impugned order which may call for interference by this Commission in exercise of revisional jurisdiction. Revision petition is, therefore, dismissed.