
(1999) 12 NCDRC CK 0052

In the National Consumer Disputes Redressal Commission

KIRAN GARG

APPELLANT

Vs

GENERAL MANAGER (SOUTH 1) MAHANAGAR TELEPHONE
NIGAM LTD.

RESPONDENT

Date of Decision : 08-12-1999

Acts Referred:

Citation : 2000 1 CPJ 45

Hon'ble Judges : Sardar Ali Khan , R.L.Sudhir J.

Final Decision : C.A. disposed of

Judgement

1. THIS order shall dispose of the Compensation Application No. 43 of 1997 filed under Section 12-B of the Monopolies and Restrictive Trade Practices Act, 1969 (hereinafter referred to as the Act) by Mrs. Kiran Garg (hereinafter referred to as the applicant) against General Manager (South 1), Mahanagar Telephone Nigam Ltd. (hereinafter referred to as the responden). It has been stated by the applicant that she applied for shifting of her telephone No. 6896188 installed at her B 10/7107, Vasant Kunj, New Delhi-110070 to her Faridabad residence on 7.6.1995 on account of her shifting at Faridabad; that the telephone was closed w.e.f. 10.7.1995 under OB No. 836892824 dated 26.6.1995; that the certificate was also issued by the respondent to Faridabad Telephones on 12.9.1995 vide No. 076/VII for shifting my telephone; that since the telephone was to be shifted out of Delhi, the applicant was entitled for the refund of Rs. 1,980.00 paid as advance rent for one year and Rs. 316.00 as rent paid for the period 11.7.1995 to 30.8.1995; that the applicant requested the respondent to refund her advance money and the rent paid for the period 11.7.1995 to 30.8.1995; that when the applicant did not receive the refund for more than one year, she filed this compensation application. After going through the application, notice was issued to the respondent by the Commission returnable on 8th May, 1997.

2. ON 8th May, 1997 opportunity was given to the respondent to file their reply and the case was adjourned to 19th September, 1997. Since no reply was filed on behalf of the respondent on that date, ex parte proceeding were set against

the respondent and the case was fixed for final hearing on 17th December, 1997. ON 17th December, 1997 one Shri Narendra Sharma appeared on behalf of the respondent and said that the claimed amount has already been refunded to the applicant by a cheque bearing No. 783807 dated 19th November, 1997 for a sum of Rs. 2,237/-. ON the prayer of the respondent the ex parte order dated 19th September, 1997 was recalled and the respondent was directed to file their reply and the case was fixed for hearing on 16.2.1998. Since 16th February, 1998 was declared as holiday on account of Lok Sabha Elections, the case was adjourned to 27.5.1998. ON that date the following issues were framed : 1. Whether the respondent has been indulging in unfair trade practices as alleged in the compensation application ? 2. Whether the applicant has suffered any loss or damage on account of these unfair trade practices ?

Relief, if any. 3. The attorney for the applicant stated that no documentary or oral evidence is proposed to be produced by her, opportunity was given to the respondent to file their evidence within six weeks and the case was listed for the cross-examination of respondent's witness on 23rd September, 1998. On 23rd September, 1998 the attorney of the applicant stated that inadvertently he said on the last date that no oral or documentary evidence would be adduced on behalf of the applicant. He prayed for filing the affidavit of evidence on behalf of the applicant. The prayer was allowed and the applicant was directed to file her evidence within four weeks with copy to the respondent, who was allowed to file the counter affidavit in evidence within four weeks thereafter and the case was listed for final arguments on 8th April, 1999. Both the parties filed their affidavit and counter affidavits and the case was listed for final hearing again on 27th August, 1999. On 27th August, 1999 arguments were heard and order reserved.

The respondent had stated in their reply that they have refunded the amount of Rs. 2,237/- to the applicant on 19.11.1996 vide cheque No. 783807 and was sent by registered post to the applicant on 22.11.1996. It was prayed by the respondent that since the amount has already been paid to the applicant, her application may be dismissed.

3. THE applicant has not disputed about the payment of Rs. 2,237/-. She has stated that the telephone was closed on 10th July, 1995 and the payment was made on 22.11.1996 and there was delay of more than 16 months. She has prayed for 20% interest per annum on delayed payment. She also prayed for Rs. 2,000/- as cost of the proceedings and Rs. 15,000/- for mental harassment and financial loss. We have gone through the record of the case, evidence of the parties and heard the arguments. We are of the view that the delay in making the payment is nothing but an unfair trade practice on the part of the respondent and as a result thereof the applicant has suffered mental and financial loss. The applicant is therefore entitled for interest on delayed payment, cost of the proceedings and mental agony.

4. IN view of the above facts and circumstances of the case, we direct the respondent to pay 18% interest on Rs. 2,237/- on account of delayed payment

for the period 11th July, 1995 to 22nd November, 1996 to the applicant within six weeks from the date of this order. The respondent is also directed to pay Rs. 1,000/- for mental harassment to the applicant within the same period and file an affidavit of compliance within four weeks thereafter. A copy of this order may be sent to both the parties by RPAD. C.A. disposed of.