
(1995) 09 NCDRC CK 0031

In the National Consumer Disputes Redressal Commission

MAHARASHTRA STATE ROAD TRANSPORT CORPORATION

APPELLANT

Vs

B.G. SARANG

RESPONDENT

Date of Decision : 19-09-1995

Acts Referred:

Citation : 1995 2 CPC 514 : 1995 3 CPJ 40 : 1995 3 CPR 60 : 1996 1 CLT 48

Hon'ble Judges : V.Balakrishna Eradi , S.S.Chadha , B.S.Yadav , S.P.Bagla , R.Thamarajakshi J.

Final Decision : Revision Petition allowed

Judgement

1. THIS Revision Petition raises the question of the jurisdiction of Redressal Forums constituted under the Consumer Protection Act, 1986 to entertain and to adjudicate upon matters involving the fixation of fares and issue of directions to refix the fares of stage carriage buses plied by Statutory Corporations.

2. THE Complainant filed a complaint before the District Forum, Sindhudurg alleging that while he was travelling from Venguria to Kudal after purchasing two tickets in the passenger bus of Maharashtra State Road Transport Corporation (for short called "Corporation") plying on the route Vengurla - Kankavali he was charged Rs. 5.50 per ticket, whereas on the return journey from Kudal to Vengurla in the bus plying on the same route he was charged Rs. 4.50 per ticket for the same distance. THE Complainant sought the refund to the excess fare of Rs. 2/- charged by the Corporation and also, claimed damages and costs. THE version of the Corporation before the District Forum is that in the instant case the stop point at Kudal is not an approved stage point in respect of vehicles which arrive at or depart from Vengurla from and to other places i.e., buses plying on other routes but passing through Kudal, that therefore the fare has to be charged on the basis of approved table for stage point immediately preceding or succeeding that point and on that basis the fare has to be calculated for five stages and that, however, for the route Vengurla to Kudal the fare is calculated on the basis of 4 stages. THE submission is that there is difference in the fare while travelling in buses plying on different routes through Kudal, the fare being

charged for travelling in the bus running on the route Vengurla - Kudal is on the basis of criteria fixed by the Government and is valid in law and binding on all concerned. The District Forum expressed that from the arguments advanced and the documents produced before the Forum and the discussions held with the Assistant Regional Transport Authority, Sindhudurg, the District Forum is of the view that it is not permissible for the State Transport Corporation to charge different fares for the same distance undertaken by ordinary buses which are not providing additional facilities. The District Forum directed: "(i) The Opposite Party should charge the same fare for the distance Vengurla to Kudal in respect of the ordinary buses plying from Vengurla to other places and arriving at Vengurla from other places and the compliance be reported to the Forum.

(ii) The Complainant is entitled to recover the excess fare of Rs. 2 /- charged by the Opposite Party. The Complainant is entitled to recover the sum of Rs. 2/- and a sum of Rs. 100/- as damages and costs from the Opposite Party."

Being aggrieved of the order of the District Forum, the Corporation filed the appeal which was rejected by the State Commission by the impugned order dated 12th November, 1992. The State Commission, however, did not record any detailed reasons except stating that it did not find any substance in the appeal as against the finding of fact reached by the District Forum.

3. WE may briefly notice the relevant provisions of Motor Vehicles Act, 1988, Section 67 of the said Act empowers the State Government to control road transport. Sub-section (1) empowers the State Government to issue directions to the State Transport Authority and the Regional Transport Authority with respect to matters enumerated in Clauses (i) to (iii). In doing so the State Government must have regard to the consideration mentioned in (a), (b), (c) and (d). It, inter alia, empowers the State Government to issue directions regarding fixing of fares and freights (including the maximum and minimum in respect thereof) for stage carriages, contract carriages and goods carriages. Under Section 68(3), the State Transport Authority and every Regional Transport Authority shall give effect to any directions issued under Section 67. Pursuant to the directions issued by the Government, the Regional Transport Authority and the State Transport Authority fix the fares and approve the fare table. In terms of Section 72(2)(iii) of the said Act, the same form part of the conditions of permit and the Operator has to charge the fare in accordance with the approved fare table. Clause (xv) of Sub-section (2) of Section 72 further provides that tickets bearing specified particulars shall be issued to the passengers and shall show the fares actually charged and that records of tickets issued shall be kept in a specified manner. Section 86 of the said Act provides for penalties for certain breaches mentioned in Causes (a) to (f) thereof of permit holders. The penalties are: (i) cancellation and suspension of the permit, (ii) recovery of cash penalty. It also empowers the Transport Authority which granted the permit to cancel or suspend the permit for such period as it thinks fit for breaches of any condition contained in the permit. In exercise of its powers under Section 67 of the said Act, Government of

Maharashtra has issued notifications from time to time issuing directions to the State Transport Authority and Regional Transport Authority regarding fixing of maximum and minimum fares in respect of all category of stage carriage vehicles including ordinary services. The copy of notification dated 4th May, 1990, is on the record and the relevant portion of the same reads as follows: "1. On and from the 9th May, 1990: (a) the fares chargeable (inclusive of the amount of tax on passengers carried by road in stage carriages) in respect of ordinary service shall be one rupee per passenger for each stage of 6 kilometres or part thereof.....

5. Where the place of boarding the stage carriage or the place of alighting from the stage carriage is not a stage approved by the State Transport Authority or by the Regional Transport Authority concerned, the distance travelled shall, for the purpose of charging the fares, be calculated from the stage point so approved or as the case may be from the stage point immediately succeeding the points so approved."

4. A reading of the above statutory provisions of the Motor Vehicles Act and the notification shows that the Authority to determine the fare and the mode of fixing the fare in stages is the State Government which alone is competent to revise the fare structure. Under the notification issued by the Government in respect of stage point not approved by the State Transport Authority or the Regional Transport Authority the distance travelled for the purpose of charging fare shall be calculated from the stage point immediately preceding or succeeding stage point so approved. As such in respect of vehicles going beyond Kudal the fare has to be calculated on the basis of distance between the boarding stage to the approved succeeding stage point as in respect of such routes the stage point Kudal is only a sub stage and is not an approved stage point. Therefore, the fare is calculated for five stages on the basis of the distance. However, in respect of route Vengurla to Kudal the stage point Kudal is an approved point and on the basis of the distance the fare is calculated for four stages. The fare being legitimately charged cannot be said to be illegal and no grievance in respect of the same can be raised under the Consumer Protection Act. The charging of fare which is approved by the Competent Authority cannot be said to be a deficiency in service and therefore, the Redressal Forums have no jurisdiction to entertain such complaints. In other words the charge of legitimate fare as per approved fare table cannot be said to be illegal and there is no deficiency in service within the meaning of the word "deficiency" as defined in the Consumer Protection Act. The correctness or otherwise of the fares fixed by the Government or State Transport Authority or Regional Transport Authority in exercise of its statutory powers cannot be questioned under the provisions of the Consumer Protection Act, 1986, The impugned orders of the State Commission as well as the District Forum are without jurisdiction and are entitled to be set aside. In the result the Revision Petition is allowed, the impugned order of the State Commission dated 12.11.92 as well as the order of the District Forum dated 14th August, 1992 are set aside and the complaint is dismissed leaving the parties to bear their own

costs throughout. Revision Petition allowed.