

**(1997) 05 NCDRC CK 0076**

**In the National Consumer Disputes Redressal Commission**

MATHEW K. KATTIMATTOM, CHIEF REPRESENTATIVE, UNIT  
TRUST OF INDIA

APPELLANT

Vs

CHIEF GENERAL MANAGER, KERALA TELECOM CIRCLE

RESPONDENT

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**Date of Decision :** 12-05-1997

**Acts Referred:**

**Citation :** 1998 1 CPJ 138

**Hon'ble Judges :** P.K.Shamsuddin , K.Balakrishnan Nair , K.M.Latha J.

**Final Decision :** Appeals dismissed

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**Judgement**

1. THESE appeals are directed against the order passed by the District Forum, Idukki, in OP No. 617/94. The complainant who is not satisfied with the amount of compensation has filed Appeal No. 1400/96 claiming higher compensation. The opposite party has filed Appeal No. 1405/96 contending that the order allowing compensation is unsustainable.

2. SHORTLY stated the allegations in the complaint are as follows : The complainant is the Chief Representative of the Unit Trust of India. For the purpose of discharging his official duties he applied for a telephone connection under the OYT Scheme on payment of the required deposit amount of Rs. 6,000/-. Since immediate connection from the Thodupuzha Telephone Exchange was not possible a temporary connection was provided on 10.4.1993 for six months upto 5.10.1993. According to the rules such temporary connections are extended upto two years and there is no dispute about that. However temporary connection is given initially for 6 months. Before the expiry of the period the complainant sent an application on 16.9.1993 requesting for extension of the connection. No action was taken. He was told that authority for extending the period of telephone connection was vested with Chief General Manager, Telecom, Kerala Circle. Hence an application was forwarded to the Chief General Manager requesting extension of period of connection on 16.8.1993. As there was no action he made a second application on 4.10.1993. His telephone was disconnected on 14.10.1993. On 29.10.1993 the complainant received an order

dated 25.10.1993 of the Chief Engineer, extending the connection for a further period of 6 months. But no action was taken. He therefore made a representation to Chief Engineer on 17.11.1993. On 19.11.1993 the Sub-Divisional Officer, Thodupuzha, extended his telephone connection for a further period of 6 months with effect from 16.10.1993 and issued a demand note for Rs. 1,200/- as rent for 6 months and Rs. 100/- for connection fee. He paid the amount on 19.11.1993. But his phone was reconnected only on 26.11.1993. As the period of connection would expire on 15.4.1994, the complainant made another application to the Chief General Manager for extension of the period of connection as early as on 25.2.1994. On 23.3.1994 the Chief General Manager issued letter to the 2nd opposite party directing him to file a report in the matter. No steps were taken in the matter and his telephone was disconnected on 16.4.1994. As there was no move on the part of the opposite parties to effect reconnection the complainant filed OP No. 5665/ 94 before the High Court of Kerala. Following the order of the High Court dated 22.4.1994 the telephone of the complainant started working from 29.4.1994. Again a demand note dated 27.7.1994 was issued and the complainant paid Rs. 1,200/- as per the demand note as rent for six months from 16.4.1994. As the period of the telephone connection was expired on 16.10.1994 the complainant again made application for extension of the period of connection on 28.8.1994. No action was taken on his application and his telephone stopped working from 28.10.1994. The matter was informed to the telephone exchange. The 5th opposite party examined the telephone of the complainant. But there was no further step in the matter. On 1.11.1994 the complainant approached the 3rd opposite party and made enquiries. He was informed by the 3rd opposite party that there was a direction from the 2nd opposite party for immediate disconnection of the telephone. The 4th opposite party who was present in the Chamber of the 3rd opposite party intervened in the matter and directed the complainant to see the concerned persons properly. The words of the 4th opposite party caused much mental agony to him. On the 6th day thereafter the 5th opposite party made the phone working. On 27.10.1994 the Chief General Manager authorised the 2nd opposite party to extend the period of connection. Immediately on receipt of his order he was informed from the exchange that they have received orders for disconnection of the phone. He informed the exchange authorities about the order of the Chief General Manager dated 27.10.1994 and expressed his willingness to pay the necessary amount if demand note was issued. The authorities did not heed to his demand and disconnected his phone on 5.11.1994. On 7.11.1994 the complainant wrote to the 2nd opposite party requesting to reconnect his telephone. But the second opposite party did not take any action on his application. The 5th opposite party on many occasions came to the office premises of the complainant and told his neighbours that his intention is to take away the disconnected phone. The disconnection of the phone was not justified in view of his application for extension of the period. His phone remained disconnected from 16.10.1993 to 28.11.1993 and from 16.4.1994 to 29.4.1994. For these periods the complainant was not liable to pay rent and the

opposite party is not entitled to recover reconnection fee also as the disconnection was the result of negligence of the officers of the Telecom Department. The acts of the 4th opposite party amount to defective service and they are liable to pay compensation of Rs. 3,000/-. He also claimed another amount of Rs. 1,500/- from the 5th opposite party for his conduct and an amount of Rs. 12,000/- for loss of business profit on account of disconnection of telephone. He suffered a further loss of Rs. 2,000/- in his other business. For conducting OP No. 5665/94 before the High Court of Kerala he had to spend Rs. 2,000/-. He wanted recovery of this amount also.

The third opposite party filed objection for himself and for and on behalf of the other opposite parties raising the following contentions. It was admitted that the complainant paid an amount of Rs. 6,000/- for a telephone connection under the OYT Scheme. It is also admitted that the telephone connection for 6 months was given on 16.4.1993. As the period expired on 15.10.1993 the telephone was disconnected on 16.10.1993. It is also true that the complainant applied for extension of the period of telephone connection on 16.8.1993 and he applied to the 1st opposite party on 4.10.1993. Extension was sanctioned by the first opposite party on 25.10.1993. Following the order of the 1st opposite party demand note was issued to the complainant on 19.11.1993. On the same day the complainant made payment and reconnection was given on the same day. The allegation that reconnection was given only on 26.11.1993 is false. Again on 6.4.1994 the complainant applied for extension of period of his telephone connection. The Sub Divisional Officer, Thodupuzha, made recommendations on his application and forwarded it to the Chief General Manager's office. On 21.6.1994 the Chief General Manager extended the period for a further period of 6 months. In pursuance of the order, demand note was issued on 27.10.1994 and the complainant paid Rs. 1,200/- as 6 months' rent. Following application dated 28.8.1994 the first opposite party issued orders extending the period of the complainant's telephone on 27.10.1994. As the period extended by the Department was already expired and the period as per the order of the High Court also expired the telephone was disconnected on 5.11.1994.

3. It was further averred that the department used to give extension of the temporary connection only on taking into consideration of the capacity of the exchange. When the efficiency of the exchange is increased various aspects are to be scrutinised very carefully. Besides if more than one applications are pending the department will consider the need of the seriousness of the different applicants and only on the basis of such studies the connection is extended. The complainant was given connection only as he has registered in OYT Scheme and so medical certificate was not required. The opposite parties are not responsible for the alleged loss sustained to the complainant and the opposite parties are not liable to compensate the complainant. The third opposite party filed a version stating that telephone connection was already given to the complainant under the OYT Scheme.

4. THE District Forum held there is no evidence to show that the connection was delayed to the applicant. As regards question of realisation of rent for the period of the telephone remained disconnected/the opposite parties collected rent. According to the complainant rent was realised from him for the period from 16.10.1993 to 28.11.1993 and from 16.4.1994 to 29.4.1994. THE opposite parties admitted the realisation of rent for the above periods when the phone remained disconnected. THE District Forum also found the telephone remained disconnected only due to the negligence of the third opposite party in giving connection in appropriate time and this would amount to deficiency in service and therefore they are entitled to get refund of rent paid for the period of disconnection together with interest at the rate of 18%. Besides this the District Forum also held that the complainant is entitled to Rs. 2,000/- as compensation. Finally the District Forum passed an order directing the opposite parties to refund the amount realised from the complainant as rent for the period the telephone remained disconnected together with 18% interest from the date of realisation till payment. THE opposite parties are also directed to pay Rs. 2,000/- as compensation and Rs. 250/- as cost. Feeling aggrieved by the said order this appeal has been preferred. The order of the District Forum has been challenged in this appeal. It is seen from the records though the reconnection was given later rent was collected for the entire period of two years. According to the opposite party, the delay in extending the temporary connection occurred due to administrative and procedural delay. We are unable to accept this contention since applications were sent by the complainant for extension long before the expiry of the period of 6 months on each occasion but the opposite parties did not take any action to extend the connection though the rule provides it can be extended upto two years. This has caused considerable inconvenience and loss to the complainant. The conduct of the opposite parties in delaying to extend the connection from time to time and collecting rent for the period during which service was not provided would certainly amount to deficiency in service and in the circumstances we do not find any error in the finding entered by the District Forum that there is deficiency in service. We also think that the amount of Rs. 2,000/- awarded as compensation is reasonable. We do not find any ground to enhance the compensation. The complainant also will be entitled to Rs. 250/- awarded as costs. He will also be entitled to get refund of rent collected for the period during which the telephone remained disconnected. In the result, we dismiss both the appeals and direct the parties to bear their respective costs. Appeals dismissed.