

(1998) 08 NCDRC CK 0031

In the National Consumer Disputes Redressal Commission

M.T.N.L.

APPELLANT

Vs

PREET DHANKAR

RESPONDENT

Date of Decision : 20-08-1998

Acts Referred:

Citation : 1999 1 CPJ 28

Hon'ble Judges : A.P.Chowdhri , Desh Bandhu J.

Final Decision : Appeal disposed of

Judgement

1. BRIEF facts of the case leading to this appeal are that the telephone in question was installed at the residence of Smt. Preet Dhankar, hereinafter referred to as the complainant, in January, 1986. Since the date of installation till the disputed bill dated 1.7.1991, the bill hardly ever exceeded the number of free calls allowed by the department. Suddenly on 1.7.1991, the complainant was served with a bill for Rs. 20,056.50 for the period 16.4.1991 to 15.6.1991. The bill included 16 ISD calls made to USA, UK, Switzerland between 0025 hours to 0623 hours on a single day namely 19.5.1991. The complainant immediately brought the aforesaid facts to the notice of the department and she was allowed to pay a split bill of Rs. 358/-. The balance amount was not claimed for a long period. Ultimately, after nearly three years notice dated 25.7.1994 was served on the complainant requiring her to deposit the balance amount of Rs. 19,699/-. The opposite party regretted any effective action on the basis of the complaint made earlier by the complainant. The complainant having failed to pay the balance amount, the telephone was disconnected in August, 1994. According to the opposite party, the complaint vide letter dated 12.10.1994, the telephone was disconnected only on 15.11.1994.

2. ACCORDING to the opposite party, appellant herein, the complaint was filed by the complainant regarding excessive bill on 15.7.1991. She was allowed to deposit a provisional bill of Rs. 358/- which was issued without any delay. As no copy of the bill was retained by the department, the complainant was requested to supply a copy of the disputed bill vide letter dated 13.11.1992. The said copy

was supplied by the complainant on 27.11.1992 when enquiry was held and again action was regretted on 12.10.1994 as already stated. On a consideration of the matter, District Forum noted that 16 ISD calls to various places in USA, UK and Switzerland at odd hours on a single day was indicative of the fact that the telephone line had been misused. The District Forum was not satisfied with the type of enquiry said to have been held and, accordingly, it was directed that the opposite party shall conduct a thorough investigation of the disputed calls, preferably by an outside independent agency and in the meanwhile refrain recovering the charges in respect of disputed calls and restore the complainant's telephone within 15 days without insisting on any other payment. It was further directed that if no material adverse to the complainant was found in the investigation, the disputed call charges shall be written off. Any adverse material coming to light was to be brought to the notice of the complainant with an opportunity of being heard before raising a demand on that count. The complaint was disposed of with Rs. 1,000/- as costs. Aggrieved by the order, the opposite party, MTNL has preferred this appeal.

None appeared for the respondent when the appeal came up for hearing. We have heard Mr. S. Pattjoshi, Advocate for the appellant and have carefully gone through the record.

3. MR. Pattjoshi has put forward two contentions. These are that the telephone in question was provided with dynamic STD facility and the diversion of the line could be prevented by operating the locking device under a secret code number which was known only to the complainant. His second contention is that the matter had become fairly old, there was no outside agency which could be pressed into service to hold such an enquiry and in the facts and circumstances of the case, the said direction may be set aside. It is not disputed that since the installation in January, 1986 till first July, 1991 the complainant was mostly confined to the number of calls allowed free by the department. Suddenly the bill rose to Rs. 20,056.50. This was apparently on account of 16 ISD calls made to various stations as noted above during the course of about 6 hours on 19.5.1991. The opposite party took a long time to complete its enquiry even after receipt of the copy of the disputed bill from the complainant. In the peculiar facts and circumstances the circumstantial evidence available on record quite clearly shows that the line must have been diverted by some unscrupulous persons in connivance with the employee or employees of MTNL. With regard to dynamic STD it is sufficient to point out that the locking device becomes operative only when the consumer operates on the locking system and feeds a secret number and not until then. No evidence has been placed in record to show that the complainant had ever operated the said locking device in the present case. It cannot be disputed that until operated upon the locking device is not activated with the result that the line can be diverted. We, however, find substance in the other contention of Mr. Pattjoshi. Directions to hold a fresh enquiry through another agency is set aside. It is held that the complainant shall not be required to pay for the ISD charges referred to above. There will be no

order as to costs in appeal. Costs ordered by the District Forum shall, however, be paid. The appeal is disposed of in these terms. A copy of the order be furnished to the parties as well as District Forum-II. Appeal disposed of.