

(1995) 01 NCDRC CK 0069

In the National Consumer Disputes Redressal Commission

N. YADAGIRI

APPELLANT

Vs

K. RAJAIAH GOUD, ADVOCATE

RESPONDENT

Date of Decision : 16-01-1995

Acts Referred:

Citation : 1995 3 CPJ 521 : 1996 1 CLT 545

Hon'ble Judges : A.Venkatarami Reddy , J.Ananda Lakshmi J.

Final Decision : Complaint dismissed

Judgement

1. THIS complaint is filed against one K. Rajaiah Goud, Advocate, Secretary, Subash Chandrabose Law College, Warangal complaining that on account of the wrongful act of the Opp. Party withholding the issue of transfer certificate applied for in February, 1992, as a result of which the complainant lost two years valuable time for prosecuting further studies and also job potentialities as he became overaged for which he claimed compensation of Rs. 2,50,000/- from the Opp. Party.

2. THE complainant's case briefly stated is that he paid a sum of Rs. 500/- to the Law College and was admitted into I year Law Course in the year 1991-92. At the end of the first year an undertaking was taken by the Opp. Party stating that he paid only a sum of Rs. 500/- towards first year fee and will pay the remaining amount of Rs. 2200/- at the time of taking the memo. THE complainant continued the II year LLB and applied on 12.2.1992 for issue of transfer certificate. But according to the complaint, the Opp. Party did not issue the transfer certificate. He was therefore compelled to file C. D. No. 218/92 on the file of District Forum, Warangal which passed an order dated 23.9.1992 in the following terms: "In the result, we direct that if the scholarship amount of Rs. 4000/- sanctioned in favour of the complainant is not returned back to the Social Welfare Department as on this date, the Opp. Party is entitled to adjust a sum of Rs. 2200/- towards tuition fee of the I year and pay the balance amount of Rs. 1800/- to the complainant. THE complainant shall give a consent letter and acknowledgement to enable the management to adjust a sum of Rs. 2200/- from

out of the scholarship amount to enable the Opp. Party to issue the Transfer Certificate. If the scholarship amount is already returned back as on this date since the complainant is a poor man the Opp. Party is directed to issue the transfer certificate by writing off the tuition fees payable by me complainant treating it as a special case. This type of concession is not a precedent to any other student. THE complaint is allowed accordingly. No costs."

Aggrieved by the said order, the Opp. Party preferred an appeal C.D.A. No. 110/93 to the State Commission which confirmed the order of the District Forum on 11.3.1993.

After passing of the order of the District Forum in C.D. No. 218/92 the complainant filed this complaint C.D. No. 195/92 on 30.10.1992 claiming compensation as mentioned above.

3. IN the counter filed, the claim was opposed on the ground that the complainant paid only Rs. 500/- at the time of admission into I year Law Course on the ground stating that he would pay the balance of the amount later and the Opp. Party admitted him having regard to the circumstances of the case on receiving Rs. 500/- towards part payment of the tuition fee the complainant did not pay the amount of the tuition fee arrears inspite of several notices issued. The complainant approached the Opp. Party and requested to accept the examination fee and promising to pay the tuition fee even before the examination. But the complainant did not pay the amount till hallticket was issued. The Opp. Party permitted the complainant to write the first year law course examination with a view to save one year to the complainant. Since the institution is a private college without any aid, when the complainant applied for transfer certificate in February, 1992, the Opp. Party demanded payment of the balance tuition fee of Rs. 2200/- for first year and Rs. 2700/- for II year law course. IN the meanwhile an amount of Rs. 4000/- was granted by the Social Welfare Department to the complainant towards mess charges for I and II year course. The complainant demanded the mess charges without paying the tuition fee with a view to avoid payment of tuition fee and to receive the entire scholarship amount. As the complainant is liable to pay the tuition fee, according to the instructions; the Opp. Party adjusted the amount of Rs. 4000/- towards the tuition fee. When the complainant filed C.D. No. 218/92, the Opp. Party opposed the claim. But the District Forum directed the adjustment of Rs. 2200/- towards tuition fee and pay the balance of amount of Rs. 1800/- to the complainant. After exhausting the appeal and when the complainant filed E.P. before the District Forum, the Opp. Party deposited the amount of Rs. 1800/- in the Distt. Forum. It is therefore their case that as the complainant did not pay the tuition fee for the I and II year law course, they rightly rejected the issuance of the transfer certificate and are not responsible for any loss of further studies and job potentialities and the complainant become overaged and payment of compensation as claimed by the complainant. The complainant filed Exs. A-1 to A-7 and also a set of material papers. No oral evidence was adduced by both the

parties.

4. THE only question that arise for consideration is whether the complainant is entitled for payment of any compensation for the loss said to have been suffered by the complainant as mentioned in the complaint. It is the case of the complainant that on account of the illegal refusal of the Opp. Party to issue transfer certificate he suffered loss in a sum of Rs. 2,50,000/-. But so far as the refusal to issue the transfer certificate is concerned, the complainant earlier filed C.D. No. 218/92 to direct the Opp. Party not to prevent him from attending the II year LL.B. examination and to take appropriate action against the Opp. Party. On an elaborate enquiry, the District Forum held that the Opp. Party is entitled to deduct the I year balance tuition fee of Rs. 2200/-. But it held so far as the II year tuition fee is concerned, since the complainant is already deprived of Law Course as he was not allowed to sit for the II year examination which itself is a punishment and directed the Opp. Party to write off the tuition fee of II year Law Course by issuing transfer certificate and by paying the balance amount of Rs. 1800/- out of the scholarship amount of Rs. 4000/-. The said order was confirmed by the State Commission in C.D.A. No. 110/93 on 11.3.1992. Thus, it is found that the complainant is liable to pay Rs. 2200/- towards the balance of the I year tuition fee to the Opp. Party and also in principle he was liable to pay the tuition fee of II year law course, as the complainant discontinued the studies for the II Year the Opp. Party is directed not to collect the II year tuition fee and also directed to issue transfer certificate.

5. IT is therefore to be seen that so far as the issuance of the transfer certificate is concerned, there was already a direction by the District Forum to issue the Transfer Certificate after deducting the balance amount of tuition fees for the I year law course. The appeal C.D.A. No. 110/93 was disposed of on 1.3.1993. Even according to the allegations in the complaint that on filing the E.P. No. 42/93, the Opp. Party sent the transfer certificate to the District Forum on 23.6.1993. Therefore the delay if any in sending the transfer certificate to the District Forum is only approximately a period of three months from March, 1993 to June, 1993. The complainant did not agree for deduction of the tuition fee payable from the scholarship amount and as admittedly the complainant did not pay the balance of tuition fee of I year of Rs. 2200/- and second year tuition fee of Rs. 2700/-, it cannot be said that there is any gross negligence or deficiency of service on the part of the Opp. Party.

6. MERELY because the District Forum as well as the State Commission directed the issuance of transfer certificate and refund of Rs. 1800/-, it cannot be said that there is any gross negligence or laches on the part of the Opp. Party and they cannot be made liable for payment of compensation as claimed by the complainant. No doubt, the complainant could not prosecute his further studies during the pendency of the C.D. as well as the appeal. But mere preferring an appeal by the Opp. Party against the order in the C.D., cannot constitute either deficiency of service or laches on the part of the Opp. Party. As mentioned

earlier, after the disposal of the appeal, within a period of three months, the transfer certificate was deposited with the District Forum. The complainant filed Exs. A-2, A-3 and A-4 which show that he applied for some posts. But it is not shown that he was not considered for the post because he did not produce the transfer certificate. Ex. A-5 shows that he similarly applied to the post of L.D. Clerk to the Superintending Engineer, Operation Circle, AFSEB, Warangal. But it is not shown on what ground he was not selected. Ex. A-7 is merely a marks list produced for Ed. CBT 1992 examination, wherein the rank of the complainant was shown as 26987. This also does not establish that the complainant suffered any loss.

In the material papers, the complainant filed correspondence between himself and law college which shows that the Opp. Party demanded the payment of the arrears of tuition fee for the I and II year law Course. They did not in any way establish that the Opp. Party is responsible for the complainant not securing any job and he became over-aged. Even in the complaint filed for issuance of the transfer certificate, the complainant did not mention that the S.S.L.C. and other certificates were withheld by the Opp. Party, except an allegation in the rejoinder now. In the absence of any material, it cannot be said that the complainant applied for return of the certificate filed by him with the Opp. Party and that they failed to do so.

7. FOR the aforesaid reasons, we are satisfied that the complainant is not entitled to any relief. In the result, the complaint is dismissed accordingly. But in the circumstances of the case without costs. Complaint dismissed.