

(2003) 11 NCDRC CK 0041

In the National Consumer Disputes Redressal Commission

SANTOSH GAUR

APPELLANT

Vs

CHIEF GENERAL MANAGER, TELE-COMMUNICATION

RESPONDENT

Date of Decision : 13-11-2003

Acts Referred:

Citation : 2004 2 CLT 671 : 2004 2 CPC 470 : 2004 3 CPJ 19

Hon'ble Judges : M.A.A.Khan , Sushma Tanwar J.

Final Decision : Appeal allowed

Judgement

1. HEARD the parties. Smt. Santosh Gaur, the complainant-appellant, had applied on 23.6.1986 to the respondents to sanction/provide a telephone to her at Jaipur. She had duly paid a sum of Rs. 1,000/- to the respondents for the purpose. She was registered under General Category and allotted Registration No. JP/14184. However, subsequently her husband was transferred to Pune in Maharashtra, she, therefore, requested the respondents to transfer her registration to Pune for providing a telephone to her there. Since her prayer was not acceded to she approached the District Forum for appropriate relief. But the District Forum, Jaipur dismissed her Complaint No. 284 of 1994 vide impugned order dated 29.9.1997 on the grounds that she did not become a "consumer, of the services of the respondent by merely getting herself registered as a prospective user of a telephone and that the feasibility report regarding the position of telephones in the Telephone Exchange at Pune was also not filed. The aggrieved complainant is now before us through this appeal.

2. AT the very outset we enquired of Mr. S.L. Gaur, the husband, authorised repre-sentative of the appellant, as to whether he had obtained a telephone at Pune by now and whether he was still interested in transfer of appellant's registration at Jaipur to this Pune Exchange. Sri Gaur was fair enough to state that he was no longer interested in getting the registration transferred to Pune after about 17 years of the registration of appellant's application with the respondents at Jaipur. He, however, prayed for refund of the deposited amount with interest and compensation for mental agony and cost of litigation. The

prayer made, is quite reasonable and justified in the facts and circumstances of the case and could not be seriously opposed to by the respondents. In view of the above we do not think it necessary to comment upon the merits of the grounds for dismissal of appellant's complaint by the District Forum. Suffice it to say that since Rs. 1,000/- was charged by the respondent as consideration for rendering the services to the appellant by providing a telephone to her, the appellant had acquired the character and status of "complainant" and "consumer" within the meaning of the terms defined in the C.P. Act, 1986. We find support for such view from the Punjab Commission's decision in the case of M/s. Mela Ram Saran v. General Manager, Telecom, 1993 (1) CPR 685.

Inability on the part of the respondents in providing a telephone at Pune Exchange due to non-feasibility and also there being no rule for transfer of the registration from Jaipur to Pune was also lacking in merits. By Ex. 6, which contained the endorsement of Telecom authorities at Pune, clearly proved that list upto 21.3.1991 of the general category in Vijay Nagar Exchange at Pune had already been cleared. Appellant's registration was of the year 1986 and could have been considered by the said Exchange, had the same been transferred by the respondents there. Similarly, the refusal of the registration by the respondent, made by their letter dated 29.3.1994 on the ground of non-permissibility by the relevant orders/instructions of the department to do so, was also not valid in view of Department's Policy of transfer of registration of telephones on All India basis vide circulars 2-30/92 PHA dated 1.7.1992 and No. 2-27/93 P.H.A. dated 13.6.1994, particularly when the Vijay Nagar Telephone Exchange was in a position to provide telephone to the appellant at her address in Pune.

3. TO sum up, on the basis of the discussion made hereinabove we hold that the respondents had rendered deficient services to the appellant in not transferring her registration from Jaipur to Vijay Nagar Exchange at Pune. Prayer of the appellant for refund of her money and also to pay compensation of mental agony and costs deserves to be accepted. In this behalf we agree with the opinions expressed by the Tamil Nadu Commission in H. Habibullah Shareef v. The Madras Telephones, 1994 (1) CPR 648, and A.P. Commission's decision in M/s. Mahaveer Electricals v. The District Engineer, Tele Communications, Srikakulam & Ors., II (1991) CPJ 296=1991 (1) CPR 85. Incidentally, we may point out here that by their letter dated 29.3.1994 the respondents themselves had admitted their liability to refund the amount deposited by the appellant with them. In the result, the impugned order is set aside and the appeal as well as the complaint of the appellant allowed. The respondents are directed to refund the sum of Rs. 1,000/- to the appellant with interest @ 9% p.a. from 1.4.1994. They are further directed to pay a sum of Rs. 1,000/- as compensation for mental agony and Rs. 1,000/- as the amount expended by the appellant in pursuing her request with the respondents for transfer of her registration from Jaipur to Pune for about 6-7 years. Both the aforesaid amounts along with the amount refundable with interest shall be paid to the appellant through demand draft, sent to her at the

address given in the cause title of the appeal, within a period of three months from the date of service of this order on them failing which interest payable under this order shall be payable @ 12% p.a. from 1.4.1994 on the refundable amount. Appeal allowed.