
(1995) 06 NCDRC CK 0010

In the National Consumer Disputes Redressal Commission

S.D. TRIKHA

APPELLANT

Vs

DEVINDER MAHANT

RESPONDENT

Date of Decision : 08-06-1995

Acts Referred:

Citation : 1995 2 CLT 385 : 1995 2 CPC 349 : 1995 3 CPJ 586 : 1995 3 CPR 135

Hon'ble Judges : A.L.Bahri , R.L.Gupta J.

Final Decision : Application allowed

Judgement

1. VIDE this order. Miscellaneous Application is being disposed of. The complainant through this application claims transfer of the complaint from District Forum, Amritsar to any other District Forum for disposal on the ground that District Forum, Amritsar is non-functional as the President of the District Forum, Amritsar has not so far been appointed. On merits, his further assertion is that he being an old person and having been operated twice, is to carry urinary collecting bag on account to fixation of drainage pipe. Although, he is getting treatment at P.G.I. Chandigarh, otherwise, he is resident of Amritsar. Notice of this application was given to the opposite party who had filed reply opposing the application. The complainant has not appeared today. We have heard learned Counsel for the opposite party.

2. LEARNED Counsel for the respondents argued that there is no power of transfer of a case from one District Forum to another vested in the Punjab State Commission and the application should be dismissed on that score. In support thereof, he relies upon the decision of Rajasthan State Commission in Girraj Parshad Tikkiwal v. Ram Deo Saini and Others, II (1991) CPJ 335. On perusal of this judgment, it is observed that a letter of the President of the National Commission was referred to which is dated 19.12.1990 observing that there was no provision in the Act conferring power of transfer or withdrawal of case. Reference was made to the provisions of Section 17(b) of the Act empowering the State Commission to call for the records and pass appropriate orders in any consumer dispute which was pending or decided by the District Forum. The ratio

of the decision aforesaid cannot be applied, more so when the Act stands amended. Section 24B(1) (iii) gives all powers of supervision and administration to the State Commission over the District Forums for ensuring that the objects and purposes of the Act are best served without in any manner interfering with their quasi-judicial freedom. It is under the aforesaid provision that inherent powers of the State Commission exist for passing appropriate orders to ensure that objects and purposes of the Act are served. One of the objects of the Act is speedy redressal of grievances of the consumer. A time limit is prescribed for disposal of the complaints by the Forum, i.e., within 90 days. Such an object can be achieved only if the Forum is functioning. The position as it exists in the matter of appointment of President of the District Forum, Amritsar is that the matter has not so far been finalised. It might take some time for making the Forum functional. Present is a peculiar case where the complainant after having been operated twice has raised a dispute of deficiency in service on the part of the opposite party in performance of the first operation. The complainant is aged about 70 years and is expecting his end. These days a normal span of life has gone upto 70 years. In the complaint of this nature where the complainant claims compensation for pain and sufferings, it is he who can best depose about it. In this view of the matter, we are of the view that this is a peculiar case which should be disposed of at the earliest. Thus we put across an alternative District Forum which is functioning in the State of Punjab that the case be transferred there. There is no objection from the opposite party. Thus we direct that the complaint - S.D. Trikha v. Dr. Devinder Kumar Mahant and Others which is pending before the District Forum, Amritsar is withdrawn therefrom and transferred to District Forum, Ropar for expeditious disposal according to law. The parties present are directed to appear before the District Forum, Ropar on 5.7.1995. File of the case be sent there and directions be issued to District Forum, Amritsar in this respect. Application allowed.