
(2002) 11 NCDRC CK 0031

In the National Consumer Disputes Redressal Commission

SUKHCHAIN SINGH

APPELLANT

Vs

CHANDIGARH ADMINISTRATION THROUGH SECRETARY
HEALTH

RESPONDENT

Date of Decision : 07-11-2002

Acts Referred:

Citation : 2003 1 CPJ 262 : 2003 2 CLT 120 : 2003 2 CPR 123

Hon'ble Judges : K.K.Srivastava , Devinderjit Dhatt , MajGenS.P.Kapoor J.

Final Decision : Complaint dismissed

Judgement

1. THIS is a complaint filed under Section 17 of the Consumer Protection Act, 1986 (hereinafter for short referred to as C.P. Act) by Sh. Sukhchain Singh against Chandigarh Administration and another.

2. THE complainant has alleged that he is a patient of low blood pressure and heart problem and he was treated for these ailments since 1994 at PGI Chandigarh and Dayanand Medical College, Ludhiana at various occasions till 10.11.2000. But again on 17.11.2000 on feeling low blood pressure and chest pain, he went to General Hospital, Sector 16, Chandigarh, hospital on O.P. No. 2 for diagnosis and treatment. He avers that the doctor of this hospital was shown his previous treatment record but the doctor wrongly diagnosed him and prescribed him treatment for TB without conducting any X-Ray or other diagnostic tests for any evidence of TB. On 20.11.2000 when he went to the hospital again for follow up check he was advised to go to TB Centre, SAS Nagar, Mohali. THE complainant on 23.11.2000 went to Civil Hospital, Phase 6, Mohali and got himself examined by Dr. Ajay Pal Singh, on whose recommendations some tests were done on 27.11.2000, the results of which were received on 29.11.2000. After perusal, the doctor at Civil Hospital, Phase-6, Mohali, opined that the complainant showed no signs of TB, OPD Slip indicating the same has been attached with the complaint as Annexure C-3. THE complainant further avers that to eliminate any doubts regarding TB he got an X-Ray done at KG Scan Centre of Dr. (Mrs.) Kanwaldeep, Phase-I, Mohali and its report annexed as

Annexure C-4 indicates no lung lesion. Further he avers that X-Ray done at MRI and CT Scan Centre, SCO 1134, Sector 22-B, Chandigarh, annexed as Annexure C-5 also shows no symptoms of TB. In view of the above, the complainant states that he was wrongly diagnosed and the O.Ps. were negligent in prescribing and recommending treatment for TB and because of this treatment he is now suffering many complications such as decreasing eyesight, numbness of brain and skin, pain in lungs and loss of memory. For this medical negligence on the part of O.Ps., the complainant has prayed for the following relief : (a) Compensation of Rs. 7,00,000/- with interest at the rate of 18% p.a. from the date of loss. (b) Compensation of Rs. 20,000/- on account of harassment and mental agony as well as expenses incurred on medical tests. (c) Payment of Rs. 5,000/- as costs of litigation.

The complaint was admitted and notices were sent to the O.Ps. Mr. H.P.S. Ghuman, Advocate represented the complainant whereas Mr. K.C. Sahu, Govt. Pleader appeared on behalf of O.P. Nos. 1 and 2.

3. BOTH the complainant and the O.Ps. have led evidence by way of sworn affidavits. In his pleadings the learned Counsel for the complainant submitted that the negligence of doctors of Government Hospitals is also covered under the C.P. Act and to support his plea he cited the judgment of this Commission in the case I (2002) CPJ 211, Devinder Kumar Sharma & Ors. v. PGIMER & Ors., wherein it has been held that free service is service and recipient is a consumer under the Act. He further reiterated the averments made in the complaint and referring to Annexures C-3, 4, 5 and 6 emphasised that the complainant did not suffer from TB and the diagnosis of TB by the O.Ps. was wrong and the medication for the same caused subsequent medical complications the complainant is now suffering from and pleaded for the complaint to be allowed.

4. IN his reply, the learned Government Pleader for the O.Ps., referring to Annexure C-7, brought out that the complainant was already on Anti TB Treatment (ATT) w.e.f. 14.11.2000 whereas he reported to the OPD of the General Hospital, Sector 16, Chandigarh on 17.11.2000. He further stated that the complainant was properly examined and diagnosed as a patient of Pulm TB (Sputum +ve) with a addisonion crisis by Dr. Manjari, the doctor on duty and subsequently on 20.11.2000, Dr. Gurinderjit Singh correctly referred the complainant to TB Centre, SAS Nagar, Mohali for taking ATT (Anti TB Treatment) as the complainant belonged to Punjab. It was also submitted that the complainant was having a report showing sputum +ve which means his Phlegum was showing bacteria which causes TB and the same has been clearly indicated in the diagnosis column of the OPD Slip at Annexure C-7. From the pleadings of the learned Counsel and the documents/evidence on record, we find that the complainant is a consumer and the complainant clearly falls within the purview of the C.P. Act. As regards the complaint of medical negligence proper, though the complainant has with the help of Annexures C-3 to C-6 tried to prove that he did not suffer from TB, he has not rebutted the averments that he was already on

ATT (Anti TB Treatment) w.e.f. 14.11.2000 and nor has he denied the entry of sputum +ve in the diagnosis column of the OPD Slip at Annexure C-7. There is nothing on record to show or prove that Dr. Manjari who attended to the patient on 17.11.2000 was in anyway negligent in diagnosis of the complainant in view of the complainant being already on ATT w.e.f. 14.11.2000 and the report showing sputum +ve both of which have been clearly recorded on the OPD Slip at Annexure C-7. A detailed perusal of the record also indicates that on 23.11.2000, the complainant was advised to stop the treatment of TB by Dr. Ajay Pal Singh (Annexure C-3 refers) and by 27.11.2000 all his reports indicated no presence of TB. However, the complainant has brought nothing on record to indicate that medication as advised on 17.11.2000 which he may have continued till 23.11.2000 i.e. the date, Dr. Ajay Pal Singh advised discontinuation of the treatment for TB, could have resulted in the medical complications as described in the complaint. Though we find that Annexures C-3 to C-6 indicate no presence of TB in the X-Rays taken, the complainant in our considered view has failed to establish that the attending doctors of General Hospital, Sector 16, Chandigarh on 17.11.2000 and 20.11.2000 were negligent in diagnosis or treatment of the complainant and that the alleged medical complication enumerated in the complaint have been caused by medication prescribed by these doctors.

5. WE, therefore, find no merit in the complaint and the same is dismissed without any orders as to costs. Copy of the order be supplied to the parties free of charges. Complaint dismissed.