

(2001) 11 NCDRC CK 0006

In the National Consumer Disputes Redressal Commission

TELECOM DISTRICT MANAGER, DEPARTMENT OF
TELECOMMUNICATION, HOSHIARPUR, PUNJAB

APPELLANT

Vs

KAMALJIT KAUR, PRINCIPAL, JIWAN JOT SENIOR MODEL
SCHOOL, SAROOP NAGAR, HOSHIARPUR, PUNJAB

RESPONDENT

Date of Decision : 19-11-2001

Acts Referred:

Citation : 2001 0 NCDRC 4 : 2002 1 CPR 84 : 2005 2 CPJ 139

Hon'ble Judges : D.P.WADHWA , J.K.MEHRA , B.K.TAIMNI J.

Advocate : M.M.SUDAN , N.K.JAIN

Judgement

1. THIS petition is by the Department of Telecommunication against the order dated 5.6.97 of the Punjab State Consumer Disputes Redressal Commission allowing the appeal of the Respondent-complainant, a subscriber of the telephone. District Forum on a complaint filed by the respondent against excessive telephone bill, had dismissed the same.

2. RESPONDENT was principal of a school. She applied for a telephone which was provided to her house and on her request extension was provided in the school. A letter was sent to the Department on 23.10.93 on behalf of the respondent requesting for disconnection of the STD facility in the telephone. No action was taken by the Telecommunication Department on this request. Respondent used to receive normal bills in the range of a few hundred. She in January, 1994 received a bill for Rs.2,12,460/-. This bill was for a period of three months. She represented the Telecommunication Department and on her request she was allowed to pay Rs.2338/- only which amount she deposited. However, subsequently arrears were claimed and for non-payment thereof telephone was disconnected on 27.1.1994. In March, 1994 yet another bill was received by the respondent for an amount of Rs.55,300/-. Both these bills respondent challenged before the District Forum. As noticed above, her complaint was dismissed by the District Forum. Aggrieved, she filed appeal before the State Commission. State Commission has noticed that there was no justification for the

Telecommunication Department not to act on the letter dated 23.10.1993 sent on behalf of the respondent to disconnect the STD facility. State Commission said, in our view rightly, that in action on behalf of the Telecommunication Department in not acting on the request of the respondent was itself deficiency in service.

3. IT was contended on behalf of the Telecommunication Department that on checking meter was found to be in order and the bills were thus rightly issued. In support of its submission Telecommunication Department also brought on record the print out of the telephone calls made during the period in question. State Commission has pointed out that when there was sudden spurt in the telephone meter Telecommunication Department did not take any action and check the same and find out the cause of such spurt. It was noticed that for the period from 1.12.1993 to 31.12.1993 telephone was continuously being used for making international calls indicating fortnightly spurts. It was incumbent upon the Telecommunication Department to observe the metering instrument and the line to find out if the telephone was in fact being misused with the connivance of its officials or somebody else or it was genuinely being used by the subscriber. This action department was required to take in terms of the instructions issued in that regard. This was not done. State Commission referred in detail the instructions issued on the subject and quoted extensive from the Swamy "s Treatise on Telephone Rules, Second Edition-1993 at page 416. It is contended that these instructions are not binding on the Telecommunication Department and these are merely guidelines. This is rather spacious argument to make. Then its submission that exchange was modern C-Dot exchange which was automatic and there were continuous check facilities existing therein which itself keep on monitoring that no excess metering case occurred. Perhaps the argument is that there cannot be any fault in a modern C-Dot exchange. We cannot fall for such an argument however modern equipment may be. It has to be shown that it was properly maintained. The instructions which have been mentioned in the order of the State Commission may also be quoted. These are published in the Swmay "s Treatise on Telephone Rules incorporating orders upto April, 1999. Instructions regarding excessive billing are contained in letter No.4-59/85-TR dated 9.4.1986: "The matter has been considered by the Telecom Board. The Board has desired the following strategy to be adopted in this regard in supersession of all the earlier orders on the subject: 3. Objective of action The objectives of action in this regard are basically ½

(i) if possible, avoid giving rise to complaints of excess billing. (ii) if possible, identify the possibility of such excess billing complaint and take preparatory steps for investigation and handling of complaints, should they eventually be made. (iii) acknowledge the complaint promptly on its receipt. If there is a reasonable doubt that the complaint is genuine provide temporary relief by way of a split bill pending consideration of the complaint. (iv) quick investigation of the complaint and final decision. (v) if the complaint is found to be genuine with a reasonable doubt that there has been some departmental default, provide permanent relief by way of rebate. (vi) in case the complaint is not found

justified, give a courteous reply with every attempt to convince the subscriber that nothing wrong has been found in the bill. 4. Avoiding excess billing complaints 4.1 In general, excess billing complaints arise from telephones having STD facility. They arise because of- (a) the subscriber, his family, friends and employees having used STD and not being conscious of the extent to which they have used it or (b) a fault in the metering circuit, or some transient fault in the system, and (c) possible deliberate mischief by other subscribers in league with our staff. 4.2 As far as 4.1(a) is concerned, we can convince the subscriber only through suitable observations/discussions. 4.3 We have to be vigilant about 4.1(b) and ensure that as far as possible, metering circuits are tested and kept in proper order. 4.4 In regard to 4.1 (c) we must ensure that all possible points at which such mischief can take place are suitably guarded. DPs must be locked. Access to unauthorized persons to sensitive areas in the Exchanges should be avoided and in case of any suspicion about a particular member of the staff, suitable action must be taken.

4. ADVANCE action in case of possibility of an excess billing complaint 5.1 Detailed instructions have been issued separately in regard to watching the meter readings of various subscribers and action to be taken on them. 5.2 These broadly consist of 1½ (a) Meter readings being taken every fortnight; (b) Identifying all subscribers whose current fortnightly readings show a sudden spurt; and (c) In case of such sudden spurts being noticed, placing the telephone line on observation and deputing responsible staff to the subscriber's premises to check up that there has been no special occasion which might have given rise to such spurts. 5.3 In order to establish the Department's credibility and to satisfactorily investigate complaints about excess billing, it is necessary that these steps are taken conscientiously. It appears that in many stations, while meter readings are being taken regularly every fortnight, the difference is not being struck and all cases of spurts are not being brought out. 5.4 In all cases, the meter readings registers must provide for the difference being noted. Somebody should be held personally responsible to identify and report all cases of spurts to the officer-in-charge. Failure in this regard must be taken notice of. If an excess billing complaint reveals a spurt, which had not been reported, suitable educational and disciplinary notice should be taken of the concerned staff. 5.5 As far as possible all telephone lines showing a sudden spurt should be put on observation. For this purpose immediate steps must be taken to provide suitable observation equipment in all exchanges having STD facilities, so that once a spurt is noticed, the line is actually put on observation. 5.6 In case of sudden spurts being noticed, a suitable officer should be deputed to inspect the installations as well as to ensure that there was no special occasion, which could have given rise to a genuine spurt. 5.7 In this connection, it has been noted that very often the subscribers have been complaining that during a particular period of spurt, the premises had, in fact been locked since they were away. The official deputed to the subscriber's premises should take particular note of such facts and bring to the notice of the authorities concerned, since this can be useful in

tracing the possibility of malpractices. 5.8 If all the above steps are taken, the investigations into an excess billing complaint should become easier and the Department should be in a better position to explain the position to the subscriber.

Investigations of an excess billing complaint 6.1 It has been noted that subscribers do not have a clear picture as to whom they should contact in a case of a suspicion of excess billing. It is necessary that in every important telephone system one or more specific officers are identified for this purpose. Suitable offices properly furnished should be provided to them to receive the subscribers and process their complaints including issue of split bill. Widest possible publicity should be given that in case of a suspicion of any excess billing, these officers are to be contacted. 6.2 It will be useful to give suitable guidelines to the subscribers in regard to the information to be given by them in support of their excess billing complaints. 6.3 The excess billing complaint must be acknowledged immediately on its receipt. This should be done by every officer, who receives the excess billing complaint. It is possible that the subscriber may address the higher authorities than prescribed in accordance with para 6.1 above. In such cases, such authorities while acknowledging the complaint should indicate that the complaint has been forwarded to the prescribed officer in this regard and to request the subscriber to further contact him only. 6.4 Once the complaint has been received very prompt action must be taken to investigate the same. For this purpose the prescribed officers must call for the following details from the officers-in-charge of exchanges concerned:-

(a) the record of fortnightly reading in respect of 6 preceding bi-monthly periods and for all the available succeeding bi-monthly periods; (b) an extract of fault card for the disputed period; and (c) spurt report, action taken on the same and the result thereof. This will include (a) observations in the Exchange and (b) any field investigations if carried out. 6.5 In this connection, it has been decided that no field investigation is called for to determine whether there was any occasion for a special spurt after a complaint has been received. This should have been made if justified, immediately after the spurt was noticed in the fortnightly readings. It has been noticed that no useful purpose is served by undertaking such investigations after an excess billing complaint has been received. 6.6 The Exchanges should be requested to submit the reports in this regard within the prescribed period - maximum 15 days. Suitable forms have already been designed for this purpose. These may be modified if considered necessary. On receipt of these reports, the prescribed officers must evaluate all the evidence and make a suitable recommendation to the officer in whose competence the application lies. The powers of various officers for grant of rebates have been prescribed in this Office Letter No.2-3/83-TR, dated 21.3.1986. 6.7 It is possible that the excess bill exceeds the previous bi-monthly bills by substantial amounts. In such cases, temporary relief to the subscriber by way of issuing a split bill may be justified. As already prescribed a split bill may issued if the bi-monthly bill for local call charges exceeds double the maximum amount of the previous

six bi-monthly bills for local call charges. The split bill for local call charges should be limited to the average of local calls billed in the preceding six bi-monthly periods plus 10% thereof and should be issued with a clear statement that this is purely provisional bill pending further investigation into the excess billing complaint and if after investigation the Department comes to the conclusion that the original bill is justified, the subscriber will have to pay the full bill or as may be determined by the competent authority. 6.8 The prescribed officer should obtain the orders of the competent authority as soon as possible, if necessary by submitting the cases personally. In any case, the cases must be disposed of within 2 months from the date of receipt of the complaint.

5. GUIDELINES for decisions and conveying the same. 7.1 In all cases in which the investigations reveal that- (a) there has been significant spurt in a particular period; (b) in case of a spurt, there had been some special occasion which might have given rise to a genuine spurt; and (c) the observations indicate genuine STD calls having been made from the subscriber 's number, no rebate may be granted and the and the complainant may be suitably informed with due courtesy explaining briefly the investigations carried out and the results thereof. 7.2 On the other hand, if it is found that there had been, in fact, a spurt for reasons unknown or there is a reasonable doubt as to the possible faults on the metering circuit or the subscribers " equipment or a reasonable doubt exists about the possibility of some mischief, the competent officer may grant suitable rebate.

7.3 In every case, the final reply should go to the complainant within a maximum period of 2 months from the date of receipt of the complaint. 7.4 To give credibility to the investigations in the Department, individual typed replies should go to the subscribers, giving very briefly the investigations carried out, the results thereof and the reasons for the final decision.

6. *** *** *** It is requested that immediate action be taken on the above lines. To recaPitulate, ProPer arrangements may be enforced for- (a) taking fortnightly readings, identifying sPurts and following them uP; (b) identifying one or more officers, who will receive excess billing comPlaints from the subscribers and giving ProPer Publicity in this regard. Such officers must be housed in readily accessible, ProPerly furnished offices; and (c) establishing a ProPer Procedure for handling excess billing comPlaints; and (d) PromPt disPosal with individual rePlies ".

7. IT has not been suggested that the instructions referred to by the State Commission have in any way been diluted or withdrawn when it is a C-Dot exchange. These instructions are for the benefit of the consumers of the telephone and have to be followed. These cannot be brushed aside by levelling them as guidelines and acting in contravention thereof. It cannot be disputed that petitioner has not acted in terms of the instructions. We are therefore of the view that the State Commission was right in quashing the two telephone bills for Rs.2,12,460/- and Rs.55,300/- and giving direction for restoration of the

telephone. As noted above, respondent did deposit the amount of Rs.2,338/- which amount was allowed to be paid by receiving the first complaint of excessive telephone bill. This petition is therefore dismissed with costs which we assess at Rs.1,000/-