

(1992) 12 NCDRC CK 0003

In the National Consumer Disputes Redressal Commission

UNION OF INDIA

APPELLANT

Vs

AMAN DAHIYA

RESPONDENT

Date of Decision : 11-12-1992

Acts Referred:

Citation : 1992 0 NCDRC 15 : 1992 0 NCDRC 16 : 1993 1 CPJ 12 : 1993 1 CPR 117 : 1994 1 CCC 81

Hon'ble Judges : V.BALAKRISHNA ERADI , A.S.VIJAYAKAR , Y.KRISHAN , B.S.YADAV J.

Advocate : B.P.AGRawal

Judgement

1. THERE are two cross-appeals against the order dated 17th March, 1992 of the State Commission, Haryana, Chandigarh. They are disposed of by one order hereunder.

2. THE relevant facts briefly are that the appellant-complainant in Appeal No.191 of 1992 was residing in Sector 11, Panchkula, Haryana. In October 1989, he was sanctioned a telephone connection on out of turn priority basis. The installation of the telephone was subject to technical feasibility. The provision of telephone in Sector 11 was not technically feasible. Consequently, the appellant/ complainant claims to have shifted his residence on 11th March, 1990 from Sector 11 where he was paying a monthly rent of Rs.550/- for his residential building to Sector 16, which was a technically feasible area. In this Sector, he took a house at a rental of Rs.2300/- per month.

3. ACCORDING , to the appellant-complainant in January 1990, if not earlier, he had decided to contest the Bar Council Elections which were scheduled to be held in October, 1990. According to the appellant he had conveyed this to the District Manager Telephones whom he met in January, 1990 for early connection in Sector 11. As he needed a telephone to be able to contest the elections to the Bar Council, he had shifted his residence from Sector 11 to Sector 16 in March, 1990 when he had to pay a considerably higher rent. As from March 1990 onwards he was residing in a technically feasible area, he legitimately expected

that the telephone connection would be installed without further delay, he having been sanctioned connection by the Competent Authority on out of turn priority basis. However, the Telephone Department took more than one year to provide telephone connection in the new feasible area in Sector 16. Some persons below him in the seniority list for grant of telephone connections were given telephone before he was given the same in March, 1991. Thus, the Telephone Department ignored his seniority to the out of turn priority category telephone. This according to the appellant-complainant constituted deficiency in the rendering of service.

4. ACCORDING to the appellant-complainant, the deficiency was compounded by the fact that he had shifted his residence on the advice of the District Manager, Telecom, Chandigarh who had assured him in January 1990 regarding installation of telephone just after Shifting. According to the appellant-complainant, he lost the elections to the Bar Council by a narrow margin of 8 votes. He suffered professional loss by shifting from Sector 11, where he was well-known to his clients, to the new Sector where he was not so well-known and where he had to pay a substantially higher rent. He, therefore, claimed damages of Rs.7.00 lakhs for the loss of elections to the Bar Council, loss of professional practice and having had to pay much higher rent all because of the inordinate and unjustified delay in the grant of the telephone connection notwithstanding his priority in the out of turn priority list.

5. THE State Commission came to the finding that the Respondent, Telecom Department had no justification to ignore the right of the complainant to telephone connection and to favour persons below him in the priority list for allotment. According to the State Commission, this delay in allotment is a clear and patent deficiency in the nature and manner of performance of services by the Telecom Department. But so far as the quantum of compensation claimed is concerned, the State Commission observed that it was excessive and not sustainable in its totality. It considered that the appellant-complainant's assessment of loss of Rs. 3.00 lakhs due to loss of Bar Council Elections as patently too remote and only hypothetical and so lacking in factual basis. It also held that his claim for damages for loss of clientele after shifting to Sector 16 was somewhat far-fetched and could not be made the basis for grant of compensation. Keeping in view that there was a delay of over one year in giving him the telephone connection, which was prejudicial to him both financially and professionally, and he had suffered harassment for having to pursue the installation of telephone, the State Commission assessed the damage at Rs.20,000/- and awarded the same as compensation. After the hearing by this Commission, the appellant-complainant was requested to furnish information regarding the election schedule for the election to the Bar Council of the High Court of Punjab and Haryana. According to the information supplied by him after May 1988 elections to the Bar Council were held in October 1990. The tentative election programme for holding the election in October, 1990 was considered by the Bar Council in December, 1989. The Electoral Rolls were revised from February 1990 to August 1990. The final Electoral Roll was to be published on

13.8.1990. Time, place and date of election were to be notified between 16th August and 31st August, 1990.

Nominations of candidates were to be received on the 10th and 11th September, 1990 and election held on the 26th and 27th October, 1990 which were later held on the 26th and 27th November, 1990 as per the order of the High Court.

6. WE have carefully considered the appeals. We are of the view that no responsible officer of the Telecom Department could have given the assurance on behalf of the Department for giving a telephone connection to the appellant-complainant if he shifted from a technically non-feasible area to a technically feasible area. Even if he did so, he must have done so in his personal capacity and not on behalf of the Telecom Department. In the alternative, there should have been a written communication from telephone department to that effect. It is significant that in his letter of 9th of March, 1990 to the Commercial Officer, Department of Telecommunications, Chandigarh, the appellant-complainant makes no mention of such an assurance having been given to him. Obviously, the present plea is an after than. Further he has given no comparative details of the accommodation in Sector 11 on a rent of Rs. 550/- per month and in Sector 16 on a rent of Rs. 2300/- per month. It is rather unbelievable that he would have shifted his residence merely to get a telephone in a technically feasible area.

7. WE also share the doubts of the State Commission whether the lack of a telephone connection could have materially affected his chances of election to the State Bar Council. In fact, considering the schedule of election to the Bar Council in 1990, revision of the electoral rolls in August, 1990 followed by nomination of candidates for the election in September, 1990, it looks doubtful that the appellant-complainant had shifted his residence in March, 1990 merely to get a telephone for fighting the Bar Council election in which he was nominated as a candidate in September, 1990 only.

8. WHILE , therefore, there was harassment of the petitioner-complainant, the compensation viz. Rs.7 lakhs as claimed by him in his Appeal No.191 of 1992 is totally unjustified. We have also serious reservations as to the reasonableness of the quantum of compensation granted by the State Commission of Rs. 20,000/- which is also the subject matter of attack in Appeal No.143 of 1992. Keeping in view the findings of the State Commission that the claim of the complainant for compensation is patently too remote, hypothetical and far-fetched and in view of our observations above, a compensation amount of Rs. 6,000/- for the harassment that he underwent, as a result of the delay in the grant of telephone connection is considered fair and reasonable. The quantum of compensation awarded by the State Commission is reduced accordingly and is hereby fixed at Rs.6,000/- only. With this modification, the order of the State Commission is confirmed and the Appeals are dismissed. There is no order as to costs.