

(1994) 07 NCDRC CK 0039

In the National Consumer Disputes Redressal Commission

Union of India

APPELLANT

Vs

PURANMAL RURUNA NAND

RESPONDENT

Date of Decision : 23-07-1994

Acts Referred:

Citation : 1995 2 CPJ 340

Hon'ble Judges : S.N.Phukan , A.C.Bora J.

Advocate : K.N.Choudhury

Judgement

1. THIS appeal is directed against the judgment dated 12.1.94 passed by the District Forum, Tezpur in CP. Case No. 22 of 1992.

2. APPEAL was moved before this Commission on 5.3.94 and notice was issued by registered post on the same date. None appears for the respondent, therefore, the appeal has been taken up for exparte hearing. Heard Mr. K.N. Choudhury, learned Standing Counsel for the appellant, namely, Union of India and Others.

It appears from the impugned judgment that the dispute was in respect of two bills, namely bill dated 1.8.92 for Rs. 10,580/- (Exhibit-12) and the other bill dated 1.10.92 for Rs. 3,648/- (Exhibit-14). The grievance of the respondent was the bills were excessive. It was also urged by the complainant-respondent that when the telephone was changed, he was asked to exercise option regarding STD facilities which he declined. The District Forum after taking evidence of two witnesses one from each party directed that the appellants herein shall prepare four local telephone call bills of the complainant on the basis of average by monthly telephone bills by previous 12 months period. The District Forum also granted compensation of Rs. 2,000/- and Rs. 100/- for the cost of the proceeding.

3. LET us first take up the case of compensation. Mr. Choudhury has taken us through the judgment of the District Forum in holding that the complainant did not produce any relevant document as to how that the complainant petitioner sustained loss in business, but granted amount of Rs. 2000/- which itself is

contrary to the above finding. We find considerable force in the submission of the learned Counsel and accordingly set aside the order of the District Forum regarding compensation of Rs. 2,000/-. Mr. Choudhury has also pointed out that though the complaint was only for two bills as stated above, the District Forum directed to give average bills in respect of four telephone bills, which is absolutely unacceptable to us as urged by Mr. Choudhury. The District Forum ought to have confined itself with the grievance put forward in the complaint petition. Accordingly, we set aside the findings regarding granting of average bill for four telephone bills.

4. WE find from the judgment as well as from the record that the average by monthly bill of the respondent did not exceed Rs. 4,000/-. Therefore, it cannot be said that the bill dated 1.10.92 for Rs. 3648/- was excessive. However, the bill dated 1.8.92 is excessive on the face of it as the amount was Rs. 10,580/-. Therefore, we direct the appellants to reconsider this bill and submit a fresh bill for this amount within a period of 3 months from today. We have noted that a grievance was raised before the District Forum by the complainant-respondent that though he declined to avail of S.T.D. facilities by writing, the facility was not disconnected. But the fact remains that the complainant-respondent enjoyed this facilities upto 4.8.92. Having enjoyed this facility, the complainant-respondent cannot turn back and say that he is not liable to pay any amount for this facility. Mr. Choudhury has also urged that there was no negligence on the part of the Department to attract the provisions of Consumer Protection Act, 1986 inasmuch as an enquiry was conducted and the complainant-respondent was duly informed. As we have stated on the face of it the bill dated 1.8.92 appears to be excessive and the appellant-respondent is supposed to take action as per guidelines given by the Government of India, therefore, we have given the above direction. The appellant also need not pay the cost of Rs. 100/- in the proceeding before the District Forum. Subject to the above observations and directions, the appeal is disposed of. No costs. Ordered accordingly.