
(2010) 05 NCDRC CK 0014

In the National Consumer Disputes Redressal Commission

V B Tyagi

APPELLANT

Vs

South Central Railway

RESPONDENT

Date of Decision : 07-05-2010

Acts Referred:

Citation : 2010 0 CTJ 1037 : 2010 3 CPJ 241

Hon'ble Judges : K.S.Gupta , R.K.Batta J.

Judgement

1. THE petitioner has come in revision against concurrent findings of two Fora below holding that the complaint was barred by limitation in view of Section 24A of the Consumer Protection Act and no application for condonation of delay was filed explaining sufficient cause which prevented the petitioner for not filing the complaint in time. We have heard the petitioner who has appeared in person. According to the petitioner, he was travelling along with his wife on 2.12.2005 from Secunderabad to H. Nizamuddin in Rajdhani Express and at about 1 a.m. on 3.12.2005, when he went to the urinal, he found one of the caterers counting the notes near washbasin. Immediately he checked his suitcase, which was locked with a chain and found that the suitcase was open. He noticed that cash of Rs. 8,000 and the ornaments worth Rs. 10,000 were missing. He tried to give a complaint in the train, but did not find the conductor or the police. After getting down at H. Nizamuddin, he reported the matter orally to the authorities, who advised him to give the report at Secunderabad Railway Station. Accordingly, he reported the matter at Secunderabad Railway Station on 19.12.2008. According to him, as per Section 100 of the Railway Act, the Railways are responsible for the safety of the passengers' luggage carried by them till they leave the railway coach. Since no action was taken by the Railway Authorities, he had approached Alternate Consumer Disputes Redressal Cell, Department of Consumer Affairs at Hyderabad. The said Cell had sent letter dated 19.12.2008 to the petitioner to approach the Consumer Forum and as such, he had filed the complaint before the District Forum.

2. THE incidence took place according to the petitioner during the intervening

night of 2.12.2005 and the complaint was filed on 1.1.2009. The complaint was admittedly filed beyond 2 years of the cause of action, which arose on 2.12.2005. In the proceedings which the petitioner had initiated before the Alternate Disputes Redressal Cell, relief was sought against the caterer and the Sub-Inspector of Railway Police and the OP-Railways Authority was not one of the parties. In the FIR filed by the petitioner before the Secunderabad Police on 19.12.2005 against the details of the known/suspected/unknown accused, it was mentioned unknown offenders. If the complainant had suspected the caterer and had seen caterer counting notes, he could have very well indicate his suspicion in the FIR on the caterer, but the petitioner had reported against unknown offenders. The explanation of complainant that conductor and police were not available on Rajdhani Train is not acceptable. FIR was filed only on 19.12.2005. In fact, the complaint was liable to be dismissed on the point of limitation since the complaint was filed beyond 2 years as Section 24A of Consumer Protection Act comes into play. No application for condonation was filed. The letter dated 19.12.2008 from the Alternate Disputes Redressal Cell does not and cannot extend the period of limitation. Even if the complaint had been filed within the period of limitation, even then, in our view, the complainant would not be entitled to any relief. Section 100 of the Railways Act, 1989 reads as under: "A Railway Admn. shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of any luggage unless a railway servant has booked the luggage and given a receipt therefor and in case of a luggage which is carried by the passenger in his charge, unless it is also proved that the loss, destruction, damage or deterioration was due to the negligence or misconduct on its part or on the part of any of its servant."

3. THE OP had in its reply categorically stated that the Food Distributor of 2 AC coach of Rajdhani Train No. 2429 on 2.12.2005 and Sub-Inspector, GRP Railway, Secunderabad were not working under the control of South Central Railway Administration. The Food Distributor is under the control of Indian Railway Catering and Tourism Corporation and the Sub-Inspector GRP Railway is working under the State of Andhra Pradesh. Thus, both of them would not be covered under Section 100 of the Railway Act, 1989 so as to hold the OP liable for the loss in question as reported by the complainant/petitioner which even otherwise has not been proved in the facts and circumstances of the case.

4. IN view of the above, we do not find any merit in this revision, as we do not find any material irregularity, illegality or jurisdictional error in the orders of the Fora below. The revision is accordingly dismissed with no order as to costs. Revision Petition dismissed.