

(1997) 08 NCDRC CK 0031

In the National Consumer Disputes Redressal Commission

VICE-CHANCELLOR, SAMBALPUR UNIVERSITY

APPELLANT

Vs

BANDITA PUJARI

RESPONDENT

Date of Decision : 26-08-1997

Acts Referred:

Citation : 1999 1 CPJ 200 : 1999 1 CPR 138

Hon'ble Judges : P.C.Misra , Biswanath Rath , Mrinalini Padhi J.

Final Decision : Appeal allowed

Judgement

1. THIS appeal is directed against the final order passed by Bolangir District Forum in C.D. Case No. 4 of 1996. Opposite parties No. 12 and 4 in the C.D. Case are appellants before us. The facts leading to this appeal are that the respondent No. 1 had filed a complaint against the appellants and against the present respondent No. 3 alleging that due to their negligence she lost the valuable years of her career. Her case was that she had appeared at the 1st year of + 3 Examinations in the year 1991 and that she secured 329 marks but erroneously her marks secured were shown as 291 and accordingly in the marks list for the Final Examination she appeared in the year 1993, the total marks shown to have been secured by her was shown as 591 which should have been 629 Being aggrieved by the gross error committed by the opposite parties in her marks list, she submitted a representation to the Principal of Women's College, Bolangir, opposite party No. 3. Though she approached the Principal as well as Controller of Examinations, Sambalpur University, opposite party No. 2, they did not pay any heed to her requests for correction of the marks sheet. That compelled her to move the Hon'ble High Court in 1995. The Hon'ble High Court directed the opposite parties to look into the grievance of the complainant after which her marks sheet was corrected and she was awarded the correct mark, i.e. 629 and the corrected marks sheet was given to her on 2.11.1995. She therefore lost two years, i.e. 1994 and 1995 and could not prosecute her studies for the laches of opposite parties. She claimed compensation of Rs. 3,19,000/- from the opposite parties.

2. THE opposite parties filed their version before the District Forum and took the plea that the error in marks awarded to the complainant for the + 3 First Years Examination was not brought to their notice immediately after the + 3 First Years Examination was over. THE complainant, it was contended by the opposite parties, should have brought to the notice of the concerned authorities if she knew that there was error in the marks list for the First Year Examination of Plus Three. THE authorities did not know that .there was such an error. THEy knew only after the complainant filed a complaint after publication of results of + 3 Final Examination. It was a computer error which could have been corrected had the attention of the opposite parties been drawn in time. THE opposite parties also challenged the maintainability of the complaint and submitted that she was not a consumer as per Section 2(1)(d) of the Consumer Protection Act. THEir further contention was that the Hon"ble High Court had disposed of her case and had not awarded any compensation and as such there was no question of claiming compensation against them. The District Forum after considering all the facts on record and hearing the parties held the opposite parties deficient. The District Forum held that the complainant was a consumer. The Forum further held that although it had no jurisdiction to decide the evaluation of papers and publication of results, it was satisfied that there was deficiency on the part of the opposite parties 1 and 2 and they had remained silent till the Hon"ble High Court directed them to look into grievance of the complainant. The Forum further held that the Hon"ble High Court has not decided the issue of compensation and as such there was no bar to award compensation to the complainant. The Forum awarded Rs. 5,000/- as compensation to the complainant. Hence this appeal.

We do not intend to go into the merits of the case in view of the decision of National Commission in II (1997) CPJ 49 (NC)=Revision Petition No. 545 of 1994, The Chairman, Board of Examiners Madras v. Mohideen Abdul Kadar, decided on 16.1.1996. The National Commission has held in the above case that a University or Board in conducting public examination, evaluating answer papers, announcing the results thereof and thereafter conducting rechecking of the marks of any candidate is not per forming any service for hire and there is no arrangement of hiring of any service, in such a situation as contemplated by Section 2(1)(o) of the Act. In view of the above decision of the National Commission the complaint of the respondent No. 1 could not have been maintainable against the opposite parties. When the complaint was not maintainable, the order passed by the District Forum is bound to be set aside which we hereby do. The appeal is allowed but without any costs. Mr. Justice P.C. Misra, President - I agree. Mrs. Mrinalini Padhi, Member - I agree. Appeal allowed.