
(2005) 08 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

VINEET MEHROTRA

APPELLANT

Vs

GIRIJESH MANI TRIPATHI

RESPONDENT

Date of Decision : 22-08-2005

Acts Referred:

Citation : 2006 1 CPJ 527

Hon'ble Judges : Palok Basu , R.N.Prasad , Vinod Shankar Chaubey J.

Final Decision : Revision allowed

Judgement

1. THE only issue involved in this revision is whether Girijesh Mani Tripathi would come within the meaning of consumer as against the revisionists Dr. Vineet Mehrotra and Dr. Bhasker Mull both of whom were appointed Medical Officers in a Government Hospital/Medical College?

2. COMPLAINT was filed by Girijesh Mani Tripathi alleging that he went to the hospital after being injured in an accident for treatment when reference was made to B.R.D. Medical College, Gorakhpur where two applicants (Revisionists) were entrusted to treat him. It is alleged that he had paid Rs. 60 and, therefore, on the strength of the authorities of the Hon''ble Supreme Court and Hon''ble N.C.D.R.C. and the recent decision of the Hon''ble N.C.D.R.C. reported in I (2006) CPJ 71 (NC)=2004 (3) CPR 126 (NC), Haryana State through Civil Surgeon, Hissar & Anr. v. Mrs. Guddi, the complaint should proceed on merits. It transpired that on receiving notice both the revisionists applied for a issue to be decided as a preliminary one on the ground that the complainant would not come within the definition of consumer. Receipt of Rs. 60 has been filed by the opposite party along with the papers. It was a payment for room on part paying basis. Mr. B.K. Upadhayaya was afforded opportunity to place evidence, if any, in the complaint whether there was anything otherwise than what the receipt indicates. Mr. Upadhayaya confined his argument that since Rs. 60 were paid, therefore, it must be taken spent towards the treatment.

Mr. V.K. Shahi has taken detailed grounds, one of which shall be taken for decision of this revision. He says that when Rs. 60 were paid only towards rent

for part-paying room, that payment has got nothing to do with the medicines and treatment. He is right there. Nothing has been pointed out by Mr. Upadhayaya to show that any amount was spent and receipt obtained for treatment. It is contended that the complainant cannot be permitted to change now to declaring himself as a consumer. This also is correct. Nothing is stated as having been paid for treatment, medicine or any therapy.

3. TOWARDS the end Mr. Upadhayaya wanted to argue that X-ray was done on payment but receipt was refused. Such is not the case pleaded in the complaint. In view of what has been discussed above, the view taken by the District Forum that the complaint should proceed on merit is erroneous. Both the revisionists are in State employment as Doctors and even if they have rendered any service, it was totally free. In view of what has been discussed above, the revision succeeds and is allowed. The complaint as against these two revisionists is dismissed.

4. NOTWITHSTANDING the aforesaid dismissal, the complainant may pursue other legal remedy, if available. However, parties will bear their own costs. Let copy of this order be made available to the parties as per rules. Revision allowed.