

**Shameer Vs. Gopakumar**

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**Court :** Kerala State Consumer Disputes Redressal Commission SCDRC  
Thiruvananthapuram

**Decided On :** Aug-07-2008

**Judge :** Sri. M.V. Viswanathan: Judicial Member

**Appeal No. :** APPEAL NO.786 of 05

**Appellant :** Shameer

**Respondent :** Gopakumar

**Judgement :**

**SRI. M.V. VISWANATHAN : JUDICIAL MEMBER**

The above appeal is preferred from the order dated 29/7/05 passed by CDRF, Kollam in OP.No.217/04 . The complaint therein was filed for compensation on the ground of deficiency in service on the part of the opposite parties. The opposite parties filed version denying and disputing the alleged deficiency in service. The complainant was examined as PW1 and Exts.P1 to P9 documents were marked on 3/6/05. The case then adjourned to 23/6/05 for further evidence; but on that day the complainant was not ready for adducing further evidence and at the request of the complainant the matter adjourned to 11/7/05. But on 11/7/05 the opposite parties were absent and there was no representation for the opposite parties. So, the Forum below declared the opposite parties exparte and the matter was heard and taken for orders. Ultimately, on 29/7/05 the impugned order was passed

directing the opposite parties to pay a sum of Rs.31,397/- with interest @ 9% per annum and a compensation of Rs.2,000/- and cost of Rs.500/-. It is an admitted fact that the opposite parties were not given sufficient opportunities to adduce evidence in support of their contentions. It is to be noted that the opposite parties were absent on 11/7/05. No reason was stated before the Forum below for the absence of the opposite parties. It is now submitted by the counsel for the appellants/opposite parties that his senior counsel expired on 11/7/05 and so he could not appear before the Forum below to defend the case of the opposite parties. But at the same time the complainant was present on 11/7/05 with the witness on his side. So the complainant is to be compensated for the inconvenience caused to him by the opposite parties. No reason is stated for the absence of the opposite parties. They could have very well appeared before the Forum below. There was failure on the part of the opposite parties in appearing before the Forum below. It is to be noted that the Forum below passed an ex parte order. The appellants/opposite parties can be given an opportunity to defend their case before the Forum below provided the complainant is compensated for the inconvenience. This Commission is of the view that this is the fit case to be remitted back to the Forum below for fresh disposal on merits, on terms of cost of Rs.750/- to the complainant.

In the result the impugned ex parte order passed by the Forum below is set aside on terms of cost of Rs.750/- and the matter is remitted to the Forum below for fresh disposal on merits. It is made clear that both parties will be given sufficient opportunity to adduce evidence in supported of their respective pleadings. The parties are directed of appear before the Forum below on 22/9/08. The cost is to paid within two weeks from today failing which the appeal will stand dismissed.

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