

Union of India Vs. M.L. Dhar

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Court : Delhi State Consumer Disputes Redressal Commission SCDRC New Delhi

Decided On : Aug-14-1998

Judge : A.P. Chowdhri, President & Desh Bandhu, Member

Appeal No. : Case No. A-79 of 1997

Appellant : Union of India

Respondent : M.L. Dhar

Judgement :

A.P. Chowdhri, President:

1. Brief facts giving rise to this appeal are that Mr. M.L. Dhar-complainant, was a resident of Rawal Puri, Sri Nagar in the State of J and K. In 1990, he alongwith members of the family, migrated from Sri Nagar to Delhi on account of terrorist activities there. On 4.6.1993 he applied for shifting his telephone to Delhi. Alongwith the application, he filed the bill cleared up to the date of application. Even though, the telephone had not been used since 1990 and the complainant had applied in July, 1991 to disconnect the telephone and it was actually disconnected on 27.10.1990. Impleaded in the complaint were Union of India through Secretary to the Government, Ministry of Communications, General Manager (Telecommunication) Kashmir Province, Sri Nagar, Chief General Manager, J and K Telecom Centre and the General Manager MTNL, New Delhi. The complainant

did not press for any relief against MTNL, New Delhi.

2. The plea of opposite parties 1 to 3 was that for issuing surrender certificate it was necessary that there were no arrears of dues against the subscriber including the rental upto the date of issuing the surrender certificate. In the extraordinary circumstances prevailing in Sri Nagar a case was made out and submitted to the higher Authorities for waiving the rental charges. Even otherwise, the case could not be processed promptly because of constant hartals and bands and terrorists activities.

3. During the pendency of the complaint, the surrender certificate was issued by opposite parties 1 to 3 on 27.6.1996 and a telephone was installed on 29.9.1996 at complainants residence at Delhi.

4. On a consideration of the case. District Forum held that there was gross deficiency in service on the part of opposite party Nos. 1 to 3 that the complainant applied for shifting the telephone on 4.6.1993 and the surrender certificate was ultimately issued on 27.6.1996. It was also observed that even though the complainant was not liable to pay the rental since 1990, nevertheless in order to expedite the shifting, the complainant paid Rs. 3,729/- and another sum of Rs. 1,060/- on account of rental for the period ending June, 1993 on 3.6.1993 i.e. before applying for shifting the telephone. In the totality of facts and circumstances, opposite parties 1 to 3 were directed to pay compensation amounting to Rs. 10,000/- and it was directed that the said amount be recovered from the officials found responsible for dereliction of duty. Aggrieved by the order opposite parties 1 to 3 have preferred this appeal.

5. We have heard learned Counsel for both the parties and have carefully gone through the record.

6. Mr. S.M. Suri took us through the circumstances detailed in the grounds of appeal and submitted that in view of the extraordinary situation prevailing in the State of J and K during the relevant period the delay became inevitable. He also assailed the amount of compensation granted as being excessive and based on no concrete evidence of any financial loss having been suffered by the

complainant. He also submitted that because of the extraordinary conditions prevailing in parts of Sri Nagar, it was not possible to hold an effective enquiry and fix responsibility to comply with the directions given by the District Forum.

7. Mr. V.K. Kaul, learned Counsel for the respondent highlighted the material dates and submitted that even though the complainant was not liable to pay rental as the telephone remained un-used since the complainant shifted from Sri Nagar to Delhi in 1990, yet in order to avoid delay the complainant had laid the rental bill upto June, 1993 and even then there was a further delay of more than three years.

8. On a careful consideration of the respective contentions we are of the opinion that no case for interference in the amount of compensation is made out. However, we find force in the contention of Mr. Suri that no useful purpose would be served in the peculiar facts of this case to hold an enquiry to fix responsibility and recover the amount of compensation from the employee found responsible. For these reasons, we partly allow the appeal, set aside the direction to fix responsibility and recover the amount from the officials concerned as it is not feasible in the extraordinary circumstances of the case to do so. The remaining directions are affirmed. The order regarding payment of compensation, if not already complied with, shall be complied with within six weeks from the date of receipt of a copy of this order. The appeal is disposed of accordingly. A copy of the order be conveyed to the parties as well as District Forum- II.

Appeal partly allowed.

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