

(1991) 01 NCDRC CK 0027

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

MONISA SAMAL

APPELLANT

Vs

Sambalpur University

RESPONDENT

Date of Decision: Jan. 23, 1991

Citation: 1991 2 CPJ 373

Hon'ble Judges: S.C.Mohapatra , R.N.Panigrahi , J.Patnaik J.

Final Decision: Complaint disposed of

Judgement

1. COMPLAINANT was a student of III year Degree course in Rourkela Science College affiliated to Sambalpur University. Her complaint is that she was not assigned one and same roll number in her examinations as per University rule. She was assigned 87-SH-17 R6 2 in Part II and Part III and 87-SH-17 R 111 in Part I examination. Furthermore, the roll number assigned to her in Part I examination was assigned to another student Shri S .K. Gupta for the same examination. 87-SH-17 R 62 was assigned to Shri P.K. Roul, another student of the college. Thus, two roll numbers were assigned to three students. Inspite of her repeated requests and of her father, University authority did not rectify the mistake. Part I examination of the III year Degree Course held later than II year. So she appeared in different roll numbers in Part I and her back paper examinations. COMPLAINANT apprehends that marks awarded to both students have been exchanged, because of identical roll numbers of the examinees. She has been given different mark sheets of College authority which enhances her apprehension. She produced true copy of mark sheets with identical roll number and some marks in back paper (electronics). Her final result was withheld due to non-clearance of back paper, although she appeared in that subject. Letter to Vice Chancellor on 4.5.1989, to Chancellor on 28.8.1989 endorsing a copy thereof to the Controller of Examinations had turned into deaf ears. Due to non publication of her results she was deprived of higher studies.

2. OPPOSITE party in its answer in written statement says that complaint is not maintainable in this Commission as the function of the University are not covered by the definition of "service" under Section 2(o) of the Act. This dispute is not a consumer dispute as defined under Section 2(e). So this Commission has no jurisdiction to entertain the complaint. As the University statute empowers the syndicate to look after the examinations and publish results with statutory provision as to when the examinations would be held, it is duty of opposite party to adhere to the same unless the same is beyond control. OPPOSITE party simply mentions that due to "oversight" identical roll numbers had been assigned to both students and claims that as there was no difficulty in appearing in Part II examinations, there might have been no difficulty in other examinations and as such, the "oversight" has in no way affected her adversely.

Opposite party denied any communication from the Principal of the college regarding her difference in roll numbers and does not accept that complaint had suffered due to the assignment of identical roll numbers to other candidates as she had not appeared in the same examinations. Opposite party submits that she awarded 31 in English in Part I and her result had been published accordingly on 2.12.1989 which was communicated to college in Memo No. 980-/E Gr. II dated 8.12.1989. Opposite party denies its responsibility in late publication of results as the submission of marks by the examiner was delayed. It was not possible for the Controller of Examinations to answer individual letters due to his preoccupation. In case of students having back paper, 10 days time was given to apply for Post Graduate studies in the University. Her other marks do not place her in a high position so as to pursue to bright career. Opposite party says that the complainant has not disclosed the date of cause of action. Her claim is barred by the principles of estoppel and the Commission has no jurisdiction to entertain it.

Perusing the complaint, as regards maintainability of the complaint under the Act before the Commission, it is maintained in Section 12 that a complaint in relation to any service provided may be filed by any consumer to whom such service is provided. Definition of "consumer" provided in the Consumer Protection Act, 1986 is wide. Any person who hires services for consideration is a "consumer". The word "service" as defined in the Act includes "services" of any kind in wide spectrum except the exclusion in Section 2(d). The word "includes" does not limit the operational parameter of the Act. Examinations and publications of result is a service since the same gives benefit to a person who appears at the examination and becomes successful. For rendering the service, opposite party charges fees which can be said to be the hiring charges for such service. It is not personal service. University Statute 75(12) also says that it is the duty of the University to conduct

examinations properly. Accordingly, it empowered the Syndicate to conduct examinations and publish results. As the complainant mentions in her petition regarding "deficiency" in service, as it has been defined in Section 2(1)(g) which reads deficiency means any fault, imperfection, shortcoming, inadequacy in the quality, nature and the manner of performance. Manner in which University acted in assigning identical roll numbers is highly undesirable and deplorable. It suffers from deficiency within the meaning of Section 2(1)(g) of the Act. Officers employed by opposite parties should keep in mind that they are dealing with career of students and slight inadvertence on their part has the effect of destroying such career. Absence of care and caution is a deficiency in service attracting the liabilities under the Act.

3. IT is admitted by the University authorities that the identical roll numbers have been assigned to two students for the same examinations. IT is evident from the admit card and mark sheet of Sri S .K. Gupta. University simply submits it as "oversight". If at all it is simple "oversight", then it is very much irresponsible on the part of the University. At any cost an "oversight" should not damage the future of a poor student. Again inspite of several requests to rectify it, the authorities ignored it. The opposite party said that there might not be any difficulty in appearing in examinations as there was no difficulty in appearing Part II. But Part I examination held after the Part II examinations. So the question of difficulty in Part II does not arise.

It is evident from the mark sheet of Sri S.K. Gupta that he had appeared in Part I examinations and secured same marks. Both students from the same college appeared at same examination with same roll numbers and secured same marks. It is hard to accept it as a co-incidence. It is a severe negligent and careless act on the part of the University. The superfluous attitude of not rectifying the mistake, detected by the candidate despite several requests creates suspicion over the manner of its function. Since her results have been passed though delayed, the Commission will not ask to publish it, but it is a fact that the student had suffered due to assignment of identical roll numbers to another student. An educational institution, most revered, is a place of high estimation to the whole society which deals with the career so as to say the future of the students is expected to function in most disciplined manner. This type of error and callousness hampers the very sanctity of the institution.

4. AS the highest centre of learning, the University must set a standard in teaching and conducting examinations for others to emulate. AS such, in conducting examinations, the University has to be disciplined and highly objective. They cannot pass off legitimate complaints of examinees as "oversight" nor can they seek to be exonerated of their responsibility of publishing results and dealing with grievances in time because of "examiners" delay and such other negligence from individuals who forms apart of their own system. Examination assessments and results are very sensitive matters and are immensely consequential for the very future of students. University cannot and should not adopt a casual approach in dealing with such matters. The Controller of Examinations and the University authorities must take full responsibility for conducting examinations with a high standard of excellence and punctuality and should not seek refuge under flimsy pretexts and technicalities in dealing with the examination matters which are their most important duty. Negligence in such matters are cause for great concern.

Complainant had not specifically mentions what type of career she intended to persue had her results been published in time, without any error in mark sheet, where would she have taken admission. Her eligibility to enter that career is a question mark as her other marks do not place her in a high position. It is hard to assess the value of compensation. Thus, she is not liable for any compensation though the University is found to have rendered deficiency in service. In the result, complaint is disposed of without any direction. Complaint disposed of. _____