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**(1996) 05 NCDRC CK 0041**

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**

**Case No:** None

Punjab National Bank

APPELLANT

Vs

District Manager, Telephones

RESPONDENT

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**Date of Decision:** May 9, 1996

**Citation:** 1996 2 CPJ 361 : 1996 2 CPR 310

**Hon'ble Judges:** B.N.Sinha , Kalpana Ashok J.

**Final Decision:** Complaint dismissed with costs

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**Judgement**

1. THIS case has been filed by the Punjab National Bank (hereinafter called the Bank), Muradpur Branch, Patna through its Branch Manager, Mr. P. Jha, complaining illegal disconnection of his telephone No. 54074 and inordinate delay in restoration of his telephone connection by the opposite party inspite of the dues being deposited by the Bank.

2. THE case of the complainant is as follows :

The Bank was subscriber of Telephone No. 54074 which used to remain out of order very often and its functioning could be restored on complaint being made by the complainant; and that due to complaints made to the authority of the Telephone Department (hereinafter called the Department), the assistants of the department became annoyed and they began sending inflated bills to the Bank which were returned by the Bank to the Department for verification, checking and correction by the opposite party No. 2-the Commercial Manager and the Opposite party No. 3 - the Accounts Officer (TR). Being annoyed the opposite party Nos. 2,3 and 4 - an assistant in Commercial Officer's office disconnected the telephone on 1.2.91 as a

result of which the business of the Bank has been suffering It is alleged by the complainant that on repeated requests the opposite party again sent bills to the Bank which was deposited on 31.7.91 in time along with Rs. 100/- as extra charges for restoration of the telephone line and no bill was pending thereafter against the Bank, but even then the line was not restored and that thereafter the complainant approached the respondent No. 3 who informed him that he has asked the opposite party No. 5 for restoration of the telephone and thereafter the complainant also met the opposite party No. 5 in respect thereof. But he was informed by the opposite party No. 5 that the telephone No. 54074 has been allotted to some other subscriber. Thereafter the complainant sent a notice through his Advocate on 23.8.91 to the D.M.T., Patna which was replied by the Accounts Officer (TR), Telephone District, directing Shri K.P. Jaiswal, Commercial Officer opposite party No. 2 to restore the connection. But still nothing was done. The complainant again approached the D.M.T., but he showed no interest and the telephone remained disconnected. With these allegations the complainant has filed this complaint/petition claiming Rs. 2,00,000/- as compensation for loss suffered by the Bank due to negligence and deficiency in service on the part of the opposite party. On being noticed the opposite party Telephone Department appeared and filed a joint written statement controverting the allegations made by the complainant and asserting inter alia that the telephone of the complainant was disconnected for non-payment of outstanding dues; and that the dues were not paid by the complainant even for six months after the disconnection of the telephone, the indicator became spare and it could be allotted to any other subscriber and therefore after expiry of six months the number has been allotted to other subscriber and the complaint is not entitled to any relief.

3. A rejoinder has been filed by the complainant to this written statement asserting that the telephone connection was disconnected on 1.2.91 and all the dues alongwith Rs. 100/- as restoration charges were paid to the telephone department on 31.7.91 i.e.; within six months from the date of disconnection and not after six months as alleged by the opposite party.

The complainant has filed the affidavit of two persons namely Mr. B. Kumar, Advocate and Shri P. Jha, Branch Manager of the Bank. The Managar of the Bank in his affidavit has asserted that the bill was paid on 31.7.91 and not on 1.8.91 as asserted by the opposite party.

4. THE opposite party have filed the sworn affidavit of Shri B.N. Prasad A.E. (Legal) in the office of the District Manager Telephones, Patna in support of their case. Mr. Prasad has said in his affidavit that record of the account-office shows that the connection was disconnected on 1.2.91 and the back standing dues with restoration fee was deposited by the complainant on 1.8.91 i.e.; after six months. THE complainant has not filed receipt or any other paper showing deposit of the outstanding dues with restoration fee on 31.7.91, though the Branch Manager has said in his cross examination that the receipt in respect of the deposit made is in office of the Bank. Moreover, both Shri B. Kumar and Shri P. Jha the Branch Manager have admitted in their cross-examination that the back dues alongwith the restoration charges were deposited on 1.8.91. Hence it is evident that the back dues were not desptied by the complainant within six months from the date of disconnection.

For deciding this dispute Section 2 which contains the copies of the order issued by the Competent Authorities of the Telecom Department, of Swamy's Treatise on Telephone Rules may be looked into.

Now the Administrative Order No. 171/82-TR dated 26.7.84 (Clause 2(ii)(C), lays down that at the end of three months from the date of disconnection, a list of telephones which have not been not restored within three months will be prepared and sent to the DE/SDO concerned for immediate issue of the closing advice notes, Clause 2(iii) of this order further requires that as soon as such intimations are received action should be taken to recover the instruments etc. from subscribers premises and the Closing Advice Notes should be issued immediately. Order No. 2-18/82TR dated 29.1.86 (Clause-2) lays down that the Telecom Board has now decided that the Heads of Telecom Circles/Telephone Districts may exercise full powers for restoration of all categories of telephones disconnected for non-payment of dues and where all dues together with reconnection charges as well as rental for the intervening period are paid after six months from the date of disconnection and that the discretionary power will be exercised personally by the Heads of Telecom Circles/ Telephone Districts. Undisputedly G.M.T. is the Head of the Patna Telephone, District.

5. IT is evident from the perusal of these orders that under the facts and circumstances of the case, the Department could allot the telephone number of the

complainant to any other subscriber. For restoration of the connection according to the orders mentioned above the complainant was required to pay the reconnection charge as well as rental for the intervening period alongwith the back dues and to apply to the Head of the Telephone Circle/Telephone District which has not been done by the complainant. Hence the complainant has failed to establish that there has been deficiency in service on the part of the opposite party.

6. HENCE the complaint is dismissed with Rs. 1,000/- as cost to the opposite party. Complaint dismissed with costs.