

(1997) 08 NCDRC CK 0013

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

FATHINATHAN
MICHAEL

APPELLANT

Vs

TELECOM DISTRICT
MANAGER,
PONDICHERRY

RESPONDENT

Date of Decision: Aug. 7, 1997

Citation: 1997 3 CPJ 355 : 1998 1 CPR 348

Hon'ble Judges: David Annoussamy , A.Veerapandian J.

Final Decision: Appeal dismissed

Judgement

1. THESE are two appeals by the complainant.

2. THE case of the complainant is as follows: THE complainant is a subscriber for telephone facilities in Pondicherry. He received in succession two bills showing number of calls out of proportion to his actual use. From the details of the bills which the Department has provided he has been able to point out that some of the items relating to foreign calls were never been resorted to by the complainant. He has also issued a Lawyer's notice to the Department pointing out those items and requested to appoint an arbitrator as provided under Section 7B of the Indian Telegraph Act. THE Telephone Department did not yield to his request.

On the basis of the above allegations he filed two separate complaints for two periods in which he asked for revision of bills and compensation for the injury caused.

The Trial Court after hearing both the parties held that it has no power to revise the bill as held in District Manager, Telephones and Others v. Nitisaran, I (1991) CPJ 48 (NC), Telecom District Engineer, Dharamsala v. Prannath Mahajan, I (1993) CPJ 99 (NC), Telecom District Manager v. Ms. Mukherjee, 1990 CPR 111, Union of India, Secretary, Department of Telecom v Satyanarayan Lal, III (1993) CPJ 335 (NC), and therefore dismissed the complaints.

3. AGGRIEVED by that decision the complainant has filed these two appeals, which are disposed of by this common order.

The case of the complainant is that some of the items included in his bills do not relate to the calls made by him and he has listed precisely those items, which relate to foreign calls which are included in his bills.

4. THE Trial Court was certainly right in holding that he had no materials to interfere with the bills. It was not a fit case in which the District Forum can modify the amounts in the bills as per the guidelines given by the National Commission in several decisions.

There remains the prayer for compensation. The complainant has asked for arbitration to decide on the merits of his case. There is a deficiency of service on the part of the department inasmuch as it failed to refer the matter to the Arbitrator. In fact Section 7B of the Indian Telegraph Act, 1985 reads as follows: Arbitration of disputes-(1) Except as otherwise expressly provided in this Act if any dispute concerning any telegraph line, appliance or apparatus arises between the telegraph authority and the person for whose benefit the line, appliance or apparatus is, or has been, provided, the dispute shall be determined by arbitration and shall, for the purposes of such determination, be referred to an Arbitrator appointed by the Central Government either specially for the determination of that dispute or generally for the determination of disputes under this section. 2. The award of the Arbitrator appointed under Sub-section (1) shall be conclusive between the parties to the disputes and shall not be questioned in any Court. As per the provisions of the Act it is clear that if the Department cannot satisfy the subscriber about the correctness of the bill after making the necessary enquiry and verification of the equipment an Arbitrator has to be appointed by the Central Government at the

instance of the Department. If an Arbitrator is appointed generally for future disputes, the Department shall refer the disputes to that Arbitrator.

It is to be noted that the award of the Arbitrator will be final. Such an order of the Arbitrator cannot be questioned in Court, like awards of Arbitrators under the Arbitration Act. So the law has made ample provisions for the settlement of disputes to the satisfaction of the subscriber and to safeguard sufficiently the interest of the department. Such being the case when the department is seized with a complaint like the present one and especially with a request by way of a Lawyer's notice to appoint an Arbitrator one fails to understand the reluctance of the department. At any rate the failure of the department to fulfill that statutory obligation amounts to a clear deficiency in service. For such a deficiency which has compelled the complainant to come to the Forum the department has necessarily to pay compensation. Since this is the first set of such cases we fix such compensation for both the cases at Rs. 1,000/i.e. Rs. 500/- for each case. No. cost. Appeal dismissed.
