

(1997) 07 NCDRC CK 0028

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

General Manager, South Eastern
Railway

APPELLANT

Vs

M.GOURINATH

RESPONDENT

Date of Decision: July 9, 1997

Citation: 1997 3 CPJ 233 : 1998 1 CPC 471 : 1998 1 CPR 337

Hon'ble Judges: P.C.Misra , Mrinalini Padhi J.

Final Decision: Appeal allowed

Judgement

1. THE opposite parties in C.D. Case No. 140 of 1992 of the District Forum, Bhubaneswar are the appellants before us. THE respondent as complainant filed the aforesaid case alleging deficiency in service on the part of the Railway Administration. His case is that he purchased a ticket in Second Class A/C for journey from Bhubaneswar to Ernakulam on 1.5.1992 in Train No. 2610, that is, Patna Cochin Express. Admittedly his ticket was not confirmed one and he was in the Waiting List his number in the Waiting List being Sl.3. On 1.5.1992 before preceding to the Railway Station the complainant contacted the Railway Enquiry Counter over phone to ascertain as to the exact time of arrival of the aforesaid train. THE schedule time of arrival of the train was 6.20 hours and he was told that the train was running one hour late. Apprehending that the train may make up the delay, he arrived at the station at 6.50 hours, but found that the train had left the station for its onward destination. Since the journey of the complainant was of urgent necessity, he hired a taxi and proceeded to board the train at Khurda Road Junction, but by the time he reached Khurda Road Station, the train had also left the said station. Before leaving Khurdha Road, the complainant contacted the Divisional Manager Shri Singuri, who refused to listen to his grievance. According to the complainant, no complaint could be lodged by him. On reaching Bhubaneswar he sent a letter of protest by registered post alleging that inadequate information was given to him by the Bhubaneswar Railway Station for which he missed the train. He, however, purchased Air Ticket to go to Madras the same day and on the following day he

made his own arrangements to go to Cochin from Madras. He admits that the train fare had been returned to him and he could not utilise the ticket for his travel. In the complaint petition, he has prayed for compensation of Rs. 50,000/- together with the expenses he made on hiring a taxi to go to Khurda Road, the expenses incurred by him for Air Ticket from Bhubaneswar to Madras, the Hotel charges at Madras and expenses on taxi at Madras besides the trunk call charges as well as the expenses incurred by him for dinner and breakfast.

2. THE present appellants filed a showcause denying the allegations made in the complaint petition. THE sum and substance of their show-cause is that it was the duty of the complainant to reach the railway station sufficiently before the train reaches and the information given to him even if true that the train was running one hour late is no justification for his coming to the railway station after the scheduled time. It has also been said that the Divisional Manager to whom the complainant is said to have contacted over phone had no responsibility so far as the grievances of the complainant are concerned and his refusal if any for taking any steps in the matter is inconsequential. It has also been alleged in the show-cause that the complainant was not entitled to do anything with the Control Room at Khurda Road Junction and he was free to lodge any protest in the Complaint Book maintained at both the places, namely, Bhubaneswar Railway Station and Khurda Road Railway Station. According to the opposite parties, the case filed by the complainant was thoroughly misconceived and vexatious and unfounded.

The District Forum after hearing both parties, however, held that there has been some deficiency on the part of the Railway Administration who, therefore, are liable to pay Rs. 2,000/- as compensation and cost of Rs. 400/- to the complainant. The District Forum did not accept the defence of the present appellants mainly on the ground that it was a bald denial of the allegations and it was the duty assured to attend to the difficulties of senior I.F.S. Officer. The District Forum also observed that it was the duty and responsibility of the Railway Administration to inform the complainant about the time of actual arrival of the train if it was found that the train is making up the delay. The District Forum also found fault with the Railway Administration who according to the complainant refused to attend to his grievances over phone.

Though notice was served on the complainant-respondent, there has been no appearance by him and neither he has been represented by any Counsel. We have heard Mr. Behura, the learned Counsel appearing for the appellants, at length and have gone through the entire records including that of the District Forum. Though

Mr. Behura has alleged that all the allegations of the complainant made in the complaint petition are unacceptable for want of proof and the application filed by him before the District Forum is otherwise untenable, we even without going to the merits of his contentions are of the view that the complaint petition as made did not deserve to be allowed. Even assuming all the allegations made in the complaint petition to be true, it is not a case where the train left before the scheduled time of departure. According to the complainant, the scheduled time was 6.20 hours but he made a telephone call to ascertain if there was any delay in arrival of the train. Assuming that he has so ascertained, he was told that the train was then running one hour late. The complainant has not mentioned in his complaint petition as to when he made the aforesaid enquiry over telephone from the Enquiry Office of the Railways but as stated in the complaint petition, he was told that the train was running one hour late which means that there may be further delay or it may be possible for making up the delay. The complainant has alleged in the complaint petition that he reached the Railway Station at 6.50 hours which means that he did not very much rely on the information given to him by the Enquiry Office and apprehended that the train while running late may make up the delay. But unfortunately for him the train had left the station at about 6.46 a.m. His ticket was not a confirmed one. There is no allegation in the complaint petition that by the time of his arrival in the Railway Station, the ticket booked got confirmed. If the complainant had no confirmed ticket in his possession, he was not entitled to travel in the said train even though he would have reached before the departure of the train. He claims to be a Senior I.F.S. Officer and we find no justification for him to run to Khurdha Road Railway Station with an unconfirmed ticket expecting to board the train at Khurdha Road. His anticipation that his ticket may be confirmed on the way is a mere speculation. He may not be permitted to travel in the said train without a confirmed ticket in a reserved compartment. He is said to have purchased a Second Class A/C ticket, which requires a confirmation in order to occupy a berth. At best it can be said that the complainant was trying his luck to catch the train where after he could have made efforts for his entry in the said train. He was again unfortunate that by the time he reached Khurda Road Station, the train had already left Khurdha Road Railway Station. If the train had left, nothing on earth could bring it back for availing the journey by the complainant. If he missed the train and was returned the fare, the complainant rightly made his own arrangements to reach his destination. In the context of what we have already stated, we do not find any deficiency whatsoever on the part of the Railway Authorities. The complainant did not mention in the complaint petition that he told his identity to the concerned clerk at the Enquiry Office giving his telephone number to give him a call if the train made up the delay. Even if he did so, we doubt whether such a service would be made available to a passenger by the Railway Authorities in which event the enquiry office is to give return call to each and every person who could have previously made inquiries about the arrival or departure of the train. At any rate, giving the information about the arrival of a train is not one of the services for which the

complainant had paid for. He had booked his ticket for his journey from one place to another. The ticket money does not include enquiry services established by the Railways for convenience of the passengers for which nothing is charged by the Railways. We agree with the general contentions usually made in such cases that the Railway Authorities must assist the passengers in every possible way for a safe and comfortable journey and should observe punctuality. But that does not mean that any passenger would be entitled to compensation in the facts and circumstances narrated in the complaint petition.

3. THE complainant may be a very Senior Officer of the Indian Foreign Service or may be an ordinary citizen holding no post having power or money, but as the holder of a ticket is entitled to certain services irrespective of his position in the society. If there would have been deficiency on the part of the Railway Administration, we would have no hesitation to award compensation against the Railways in favour of the complainant irrespective of the office he holds and irrespective of his standing in the society. Giving our anxious consideration to the allegations made by the complainant in his complaint petition, we are unable to agree with the District Forum that there has been deficiency in service on the part of the present appellants in any manner what so ever. In the result, we would allow this appeal and set aside the impugned judgment. Appeal allowed.