

(1993) 03 NCDRC CK 0029

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

South Central Railway

APPELLANT

Vs

M.VISHNU MURTHY

RESPONDENT

Date of Decision: March 17, 1993

Citation: 1993 2 CPR 470 : 1993 3 CPJ 1294

Hon'ble Judges: A.Venkatarami Reddy , Pothuri Venkateswara Rao , J.Ananda Lakshmi J.

Final Decision: Appeal allowed

Judgement

1. THE respondent herein filed a complaint C.D. Case No. 117 of 1992 in the District Forum, Hyderabad claiming a sum of Rs. 1000/-for medical tests, Rs.10,000/- for loss of practice, Rs.120/- for typing, loss of interest, etc., in all aggregating to Rs. 11,120/-

2. THE case of the complainant is that he purchased a reserve ticket on 16.2.1991 bearing No. 03996687 for his journey from Secunderabad to Annavaram, in Godavari Express starting at 17.45 Hrs. on 2.3.1991. He also purchased a return ticket from Annavaram to Secunderabad on 3.3.1991 bearing ticket No.03996688. For reservation of return ticket a message was sent to Visakhapatnam i.e., originating station. Accordingly, in the ticket it was mentioned as MSG RO/M-Sent which means Message Return Request on message and no reservation fee or surcharge was collected excepting the fare. Reply to the said message was received in the reservation complex that the complainant was wait listed as number 125. But the complainant without the confirmation of reservation from Visakhapatnam left to Annavaram on 2.3.1991. According to the complainant berth was not reserved in spite of advance payment, intimation of non-reservation was not sent to him and berths were reserved for the persons who purchased tickets later than him.

THerefore, there is deficiency in service and quality by the opposite party. As he is an aged person and as the reservation was not provided for about 5 or 6 hours till the train reached Eluru, he suffered inconvenience and almost went into physical disability. On alighting at Secunderabad he proceeded to a Doctor who advised treatment and rest. THerefore he claimed compensation as mentioned above.

In the counter filed by the opposite-party it was stated that the complainant was in the waiting list as No. 125. He did not have any reservation. Moreover under Coaching Tariff/Rule 306 the opposite-party do not guarantee any reserved accommodation. It was further submitted that there was no deficiency of service on the part of the respondent since the service assured was to issue message free of charge to original station and convey the reply received to the complainant when asked. Since the message was already sent on the date of booking itself, as the complainant did not enquire whether return journey was confirmed or wait-listed on the date of journey, no reservation fee or surcharge was collected except the fare and therefore no reservation was provided. After investigation into the claim the opposite parties sent reply on 4.7.91 stating that the complainant had undertaken the journey to Annavaram on his own without the accommodation having been confirmed from Annavaram to Hyderabad on 3.3.1991. The opposite-party wrote a letter on 17.2.1992 informing the complainant that "However, if you wish us to further investigate into your allegation regarding the wrong information given by the Enquiry Clerk of Reservation Office, Railway Administration have no objection to conduct the confronted enquiry by calling the staff involved in the above alleged incidence". The complainant was put to strict proof regarding the medical check up etc. The complaint according to the opposite-party is frivolous and there is no negligence or deficiency of service on the part of the railway staff and is liable to be dismissed.

On behalf of the complainant Exs. A-1 to A-14 were marked. On behalf of the opposite-party Exs. B-1 and B-2 were marked. On consideration of the evidence and arguments the District Forum held that the opposite-party did not deny or accept the allegations of the complaint that two bogies were attached to the train at Visakhapatnam, the complainant would not have suffered if exhaustive charts were provided to the bogie conductors. It is also not denied that the complainant's name did not find place in any of the charts provided in the train for bogie conductors and hence it is clear that the concerned person at Visakhapatnam has committed gross-negligence by not providing complete charts to the conductors. Had the name of the complainant been included in the charts given to the bogie conductors the complainant could have got seat/berth without much difficulty and the aged persons of 68 years need not to run after conductors at every halting stations and suffered physically and mentally at that advanced stage. The District Forum repelled the contention of the opposite-party and held that Rule 306 of the Coaching Tariff Rules have no application. Hence there is negligence vis-a-vis deficiency in the service rendered and partly allowed the claim by directing payment of Rs. 1000/- for

loss of practice and expenditure incurred for his treatment and Rs. 100/- for costs.

3. IT is submitted by the learned Counsel for the appellant that the complainant did not have any reservation and therefore it cannot be said that there is deficiency in service so far as the reservation of berth to the complainant is concerned. In this regard in Ex. A.1, the return journey ticket issued, under coach/seat/ berth it was merely mentioned as MSS RQ/M, which means the request for reservation was sent. IT is also clear from the ticket that no reservation fee or surcharge was collected. On a request made by the complainant the only service undertaken at Secunderabad was to send the message to Visakhapatnam Railway Station for allotment of a berth by Godavari Express on 3.3.1991. To the said message, a reply was received from Visakhapatnam indicating that the complainant was wait-listed as 125. IT is thus evident at no point of time any reservation was made. The complainant was also not informed that his return journey ticket was reserved. In these circumstances, it cannot be said that the opposite-party has undertaken service to the complainant by way of reserving the return ticket. What all service it agreed to render was to send message to Visakhapatnam to reserve a ticket for which they received a reply stating that the complainant was wait listed at No.125. Therefore, it cannot be said that the complainant was issued RBC ticket. Thus, it is clear that the opposite parties have not undertaken to do any service to the petitioner, of reservation of the ticket and the complainant was not informed that any seat was reserved for him. The finding of the District Forum in this regard cannot be sustained. But, in the letter dated 14.3.1991 the complainant mentioned clearly that the Station Master of Annavaram could not inform him whether ticket was confirmed or not but at about 6 P.M. when the train came to Annavaram Station he directed the complainant to S-2 Bogie. IT was also mentioned that there were two special bogies attached to the train at Visakhapatnam. He further stated that Conductor of S.2 Bogie took tickets from passengers and allotted berths even though those passengers purchased tickets on 3.3.1991 because according to the conductor their ticket numbers were in the list supplied to him for allotment of berths. In the reply sent to this letter, dated 4.7.1991, the opposite parties did not deny the allegations that two special coaches were attached to the train at Visakhapatnam and also allotting berths to the passengers who purchased tickets on 3.3.91. But the railway authorities merely stated that the complainant has undertaken the journey on his own without his ticket being confirmed from Annavaram to Hyderabad and that there is no deficiency of service, in not reserving the berth for the complainant. Even in the counter this allegation that there were two additional coaches attached and that the conductor allotted berths to the persons who purchased tickets on 3.3.1991 is not

specifically denied. Since the complainant was waitlisted at serial No.125 the conductor should have taken into consideration that the complainant was wait-listed at 125 and having regard to the age of the complainant should have shown some courtesy and allotted berth to him. No doubt on account of failure to allot berth, the complainant has suffered some inconvenience, mental agony and probably on account of his old age felt giddiness. Although we hold that there is no deficiency of service in reservation of the ticket of the complainant and the railways did not inform the complainant that there is any reservation, but we feel that the complainant should have been allotted the berth after boarding of the train in preference to others who have purchased tickets on the same day while the complainant purchased ticket 15 days in advance and was kept in the waiting list.

In view of this we direct the opposite parties having regard to the medical expenses incurred and inconvenience suffered by the complainant they should make ex-gratia payment of Rs. 750/-.

4. IN the result, the appeal is allowed as mentioned above and the opposite-party is directed to pay a sum of Rs.750/- as ex-gratia payment to the complainant in addition to the costs of Rs. 100/- awarded by the District Forum. There shall be no order as to costs in this Appeal. Appeal allowed.