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## South Central Railway Vs M.VISHNU MURTHY

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**Court:** NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

**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

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### 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 Annaram 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 Annaram 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 regarding 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.