

GENERAL MANAGER, NORTHERN RAILWAY V. HIMANSHU BOHRA

General Manager, Northern Railway Vs. Himanshu Bohra

1. GENERAL MANAGER, NORTHERN RAILWAY

.....Petitioner(s)

Versus

1. HIMANSHU BOHRA

.....Respondent(s)

Case No. : REVISION PETITION NO. 997 OF 2021

Date of Judgement : 05 December 2023

Judges : MR. BINOY KUMAR

For Petitioner : MR. SANJEEV KUMAR VERMA, ADVOCATE

For Respondent : MR. HIMANSHU BOHARA, IN PERSON



Facts:

- *Complainant booked confirmed railway ticket from New Delhi to Lucknow for journey on 20.01.2015*
- *On date of journey, the coach allotted to complainant was not attached to the train*
- *TTE informed that fare will be refunded but no alternative accommodation was available*
- *Complainant received message about ticket cancellation on 21.10.2015, after date of scheduled journey*
- *Complainant filed complaint seeking compensation for mental agony and physical suffering*

Arguments:

Petitioner's Arguments:

- *Complainant has no cause of action as fare was refunded*
- *Tickets are issued subject to conditions that accommodation is not guaranteed*
- *No compensation is payable for not providing reserved accommodation*

Respondent's Arguments:

- *Revision petition only reiterates same arguments made earlier before consumer forums*
- *It does not raise any new substantial arguments*

Court's Opinions:

- *Petitioner guilty of deficiency of service for not informing cancellation before scheduled departure*
- *Complainant would have made alternative travel plans if informed in advance*
- *Court has limited jurisdiction to interfere in concurrent findings except for illegality or jurisdictional error*
- *Petitioner has not shown any such error warranting interference with consumer forum orders*

- *Despite concurrent findings, railways still approached revision – a case of only Rs 25,000*
- *Prima facie deficiency of service; revision petition devoid of any new facts or questions of law*

Referred Laws and Sections:

- *Section 58(1)(b) of Consumer Protection Act 2019 – Power of Revision*
- *Limitation on revisional jurisdiction under Section 21(b) of Consumer Protection Act*
- *Reference to multiple Supreme Court judgments limiting scope of revisional jurisdiction*

Order:

- *Revision petition dismissed*
- *Order of State Commission upholding order of District Forum in favour of complainant, upheld*

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Full text of Judgement :

1. Aggrieved by the concurrent findings and Orders passed by the Consumer Disputes Redressal Forum-VI, New Delhi (for short, the District Forum) and the Delhi State Consumer Disputes Redressal Commission (for short, the State Commission), the Petitioner / Opposite Party – General Manager, Northern Railway filed the Revision Petition No. 997 of 2021 under Section 58(1)(b) of the Consumer Protection Act, 2019 (for short, the Act) against Himanshu Bohara / Complainant. The Complaint filed by the Respondent / Complainant being Consumer Complaint No. 797 of 2015 before the District Forum was allowed and the Opposite Party was directed to pay Rs.25,000 /- to the Complainant for mental agony and cost of litigation. The relevant portion of the

Order dated 07.12.2018 is reproduced as under:-

"7. Bare perusal of the copy of SMS makes it clear that the OP had sent the message of cancellation of ticket after the date of journey i.e. 20.10.2015, due to which the Complainant had to suffer the mental agony and harassment. Non – sending message of confirmation well in time i.e. before the date of journey amount to deficiency in services. We therefore hold OP guilty of deficiency in service and direct it as under:

i. Pay to the Complainant a sum of Rs. 25,000 /- as compensation on account of pain and mental agony suffered by him which will also include the cost of litigation."

2. Aggrieved by the Order dated 07.12.2018 of the District Forum, the Opposite Party filed Appeal before the State Commission, which, vide its Order dated 28.01.2021, dismissed the Appeal and affirmed the Order of the District Forum.

3. As the District Forum and the State Commission have comprehensively addressed the facts of the case, which led to filing of the Complaint and passing of the Orders, I find it unnecessary to reiterate the same in detail.

4. The brief facts of the case are that the Complainant booked an E – Railway ticket from IRCTC website for the journey from New Delhi to Lucknow for 20.1.2015 in CC(Chair Car) Class in NDLS LKO AC SF train. The ticket was confirmed and he was allotted seat No. 55 in Coach No. CE1. On the date of journey i.e. 20.01.2015, when the Complainant reached the station, he was surprised to see that there was no CE-1 coach attached. The Complainant had stated that he approached the TTE and asked him for alternative accommodation in the train. The TTE replied that all the coaches were full and the fare of the ticket will be refunded. The Complainant received a message on 21.10.2015 that his confirmed ticket was cancelled. The Complainant stated that the

Opposite Party should have informed him about the cancellation before the date of journey and it was its duty to provide the service of transportation or to make alternative accommodation in the train. Aggrieved by the above act, the Complainant

filed a Complaint in the District Forum with prayer for compensation for mental agony and physical suffering.

5. I have heard the learned Counsel for the parties and perused the record.

6. The learned Counsel for the Petitioner argued that the Complainant has no cause of action as the Petitioner had refunded the fare amount to the Complainant. The State Commission failed to appreciate that the issuance of tickets is a contract between buyer and seller, Tickets are issued with certain conditions that the railway administration can only endeavor to provide the reserved accommodation but the same is not guaranteed. Hence, no compensation for inconvenience, lost or extra expense is entertained due to not being provided reserve accommodation.

7. The Learned Counsel of the Respondent/ Complainant argued that this Revision petition is not maintainable as the Petitioner, while exercising the revisionary jurisdiction of this Commission, wants to re-assess and re-appreciate the evidence on record and has challenged the impugned Order on the very same grounds which were raised before the District Forum and the State Commission in Appeal.

8. After going through the Order of the State Commission and District Forum and the grounds raised in the present Petition, I am of the opinion that the Petitioner has reiterated its contentions which it had already raised before the State Commission and District Forum and no new substantial argument has been raised here to warrant interference to the well-reasoned Orders of the State Commission and District Forum. Had the Complainant been informed of the cancellation of his Journey Ticket in advance, he would have accordingly planned his journey without suffering inconvenience. Thus, the Petitioner is certainly guilty of deficiency of service for not informing the Complainant of the cancellation prior to its scheduled departure.

9. It is a well-established principle that this Commission has limited jurisdiction to interfere in the concurrent findings of the District Forum and State Commission except for any

patent illegality, material irregularity or jurisdictional error. I would like to cite the following Orders of the Hon'ble Supreme Court in this regard:

a. **Rajiv Shukla v. Gold Rush Sales & Services Ltd.**, (2022) 9 SCC 31 decided on 08.09.2022, wherein it was held as under:

"In exercising of revisional jurisdiction the National Commission has no jurisdiction to interfere with the concurrent findings recorded by the District Forum and the State Commission which are on appreciation of evidence on record. Therefore, while passing the impugned judgment and order [Goldrush Sales and Services Ltd. v. Rajiv Shukla, 2016 SCC OnLine NCDRC 702] the National Commission has acted beyond the scope and ambit of the revisional jurisdiction conferred under Section 21(b) of the Consumer Protection Act."

b. **Narendran Sons v. National Insurance Co. Ltd.**, 2022 SCC OnLine SC 1760 decided on 07.03.2022, wherein it was held as under:

"The NCDRC could interfere with the order of the State Commission if it finds that the State Commission has exercised jurisdiction not vested in it by law or has failed to exercise its jurisdiction so vested, or has acted in exercise of its jurisdiction illegally or with material irregularity. However, the order of NCDRC does not show that any of the parameters contemplated under Section 21 of the Act were satisfied by NCDRC to exercise its revisional jurisdiction to set aside the order passed by the State Commission. The NCDRC has exercised a jurisdiction examining the question of fact again as a court of appeal, which was not the jurisdiction vested in it"

c. **Mrs. Rubi (Chandra) Dutta Vs. M/s United India Insurance Co. Ltd.** (2011) 11 SCC 269 decided on 18.03.2011, wherein it was held as under:

"23. Also, it is to be noted that the revisional powers of the National Commission are derived from section 21(b) of the Act, under which the said power can be exercise only if there is some prima facie jurisdictional error appearing in the

impugned order, and only then, may the same be set aside. In our considered opinion there was no jurisdictional error or miscarriage of justice, which could have warranted the National Commission to have taken a different view than what was taken by the two Forums. The decision of the National Commission rests not on the basis of some legal principle that was ignored by the court below, but on a different (and in our opinion, an erroneous) interpretation of the same set of facts. This is not the manner in which revisional powers should be invoked. In this view of the matter, we are of the considered opinion that the jurisdiction conferred on the National Commission under Section 21(b) of the Act has been transgressed. It was not a case where such a view could have been taken, by setting aside the concurrent findings of two fora."

d. Lourdes Society Snehanjali Girls Hostel and Ors Vs. H & R Johnson (India) Ltd. and Ors. (2016 8 SCC 286) decided on 02.08.2016, wherein it was held as under:

"23. The National Commission has to exercise the jurisdiction vested in it only if the State Commission or the District Forum has failed to exercise their jurisdiction or exercised when the same was not vested in their or exceeded their jurisdiction by acting illegally or with material irregularity. In the instant case, the National Commission has illegally or with material irregularity. In the instant case, the National Commission has certainly exceeded its jurisdiction by setting aside the concurrent finding of fact recorded in the order passed by the State Commission which is based upon valid and cogent reason"

e. Sunil Kumar Maity v. SBI, 2022 SCC OnLine SC 77 decided on 21.01.2022 , wherein it was held as under:

"9. It is needless to say that the revisional jurisdiction of the National Commission under Section 21(b) of the said Act is extremely limited. It should be exercised only in case as contemplated within the parameters specified in the said provision, namely when it appears to the National Commission that the State Commission had exercised a jurisdiction not

vested in it by law, or had failed to exercise jurisdiction so vested, or had acted in the exercise of its jurisdiction illegally or with material irregularity. In the instant case, the National Commission itself had exceeded its revisional jurisdiction by calling for the report from the respondent-Bank and solely relying upon such report, had come to the conclusion that the two fora below had erred in not undertaking the requisite in-depth appraisal of the case that was required.”

10. Further, despite concurrent findings, the Railways have filed this Petition. I would like to cite the Order of the Hon'ble Supreme Court in Gurgaon Gramin Bank vs. Smt. Khazani & Anr., Civil Appeal No. 6261 of 2012, decided on 04.09.2012, wherein, it was held that the Government and other instrumentalities including banking institutions should not invoke courts jurisdiction for resolution of small and trivial matters. This is a case of Rs. 25,000/- only. Prima facie, there is a deficiency of service. This Revision Petition is devoid of any new facts or question of law. Undoubtedly, it is a frivolous Petition.

11. In view of the aforesaid discussion, the Revision Petition is dismissed. The Order of the State Commission is upheld.

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