

RAJESH ARORA V. SAURABH CHHABRA

1. RAJESH ARORA
DIRECTOR ARORA CONSULTANTS FA229B, MANSROVAR
GARDEN
NEW DELHI-110015

.....Petitioner(s)

Versus

1. SAURABH CHHABRA
S/O. K.K. CHHABRA, R/O. C-15-A, DDA FLATS, SHIVAJI
ENCLAVE, RAJA GARDEN,
NEW DELHI-110027

.....Respondent(s)

Case No: REVISION PETITION NO. 2260 OF 2016

Date of Judgement: 19 Jan 2023

Judges:

HON'BLE MR. C. VISWANATH, PRESIDING MEMBER

HON'BLE MR. SUBHASH CHANDRA, MEMBER

For the Petitioner : MR. VINOD K. GANDHI

For the Respondent : Respondent IN PERSON A/W

Mr Vishal Chauhan, Proxy Counsel

Facts:

Respondent approached the Petitioner consultation firm for overseas education services. Petitioner facilitated his admission and visa for a course in London. Respondent discontinued course mid-way in November 2009 due to personal reasons and returned to India. He filed complaint seeking fee refund and compensation alleging deficiency in services by

Petitioner. District Forum: Dismissed complaint holding no deficiency of services was proved. Respondent had discontinued due to personal reasons. State Commission: Allowed appeal and directed joint refund of fees and compensation by Petitioner and college, holding Petitioner deficient in services regarding course details and revisions in commencement date.

Revision Petition:

Petitioner's Arguments:

Provided limited services of admission and visa facilitation. Not responsible for academic aspects. No evidence to prove its role in scheduling of classes or curriculum. Order wrongly made it jointly liable with deficiency not proved.

Respondent's Arguments:

Petitioner misled about college and course details. Large gap between promise and actuals. Classes held in different locations, no proper campus. Dates revised causing hardship.

Observations & Decision:

No evidence that Petitioner's scope of services included academic aspects like course schedules, campus etc. Nothing to show Respondent left due to attendance issues. State Commission order fastening liability on Petitioner unsustainable. Revision petition allowed, State Commission order set aside.

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Full Text of Judgment:

1. This revision petition filed under section 21 (b) of the Consumer Protection Act, 1986 (in short, the 'Act') assails the order of the State Consumer Dispute Redressal Commission, Delhi (in short, 'State Commission') in Appeal No. 549 of 2012

dated 26.05.2016 orders in consumer complaint no. 392 of 2010 of the District Consumer Disputes Redressal Commission, Janakpuri, New Delhi (in short, 'District Forum') dated 30.03.2012.

2. Briefly stated, the facts of the case as stated by the petitioner are that respondent had approached the petitioner, who provides consultancy and assistance services for assistance in admission and visa services overseas, for higher education in the United Kingdom in 2009. The petitioner facilitated respondent's admission in the London School of Business Management and his student visa application through the High Commission of UK in New Delhi. The respondent travelled to London, UK in October, 2009 and joined the said college. However, the respondent was not attending classes regularly which was reported by the college to the UK Border Agency. The respondent discontinued his education and returned to India in November 2009 on receiving news of his mother's ill health. He filed a consumer complaint before the District Forum seeking refund of the expenditure incurred on the admission along with compensation and interest from the petitioner. The District Forum in its order dated 30.03.2012 dismissed the appeal on contest holding as below:

... it is clear that complainant on his own came back to India as he could not pursue the course there and later on he filed this complaint to somehow get the refund of the fee. It is very much evident that due to illness of his mother he came back to India and as such complainant's contention that no such college of OPs did not exist and the classes are not being held regularly is misfounded as the same is not substantiated in the Forum with any evidence and on the contrary sufficient material is on record to show that OP 2 is a well-recognized registered management school where regular classes are being held by the faculty members.

Accordingly, in view of the above facts of the case we do not find any deficiency in service on the part of the OP and, therefore, dismiss the present complaint being devoid of any merit.

3. Against this order the respondent approached the State Commission in appeal. After hearing both parties the State Commission allowed the appeal and set aside the order of the District Forum as per the impugned order dated 26.05.2016 which reads as below:

Appellant has been able to prove that the respondents first caused inconvenience to him representing that the classes would start in September 2009. For no fault of the appellant, the programme was changed to start w.e.f. 02.11.2009. Study course, as discussed, never started. Another promise was made to the appellant that the course would begin in February 2010. It was not possible for the appellant to bear expenditure of stay in London till February 2010 and wait for the programme which had always remained uncertain. Complainant has been put to inconvenience, harassment, mental agony, sadness and frustration. Complainant filed by the appellant is this allowed. Respondent 1 and respondent 2 are directed to refund to the appellant the amount of Rs 4,7,8500/- along with interest @ 10% p a jointly and severally w.e.f. 11.12.2009 i.e. the date on which his claim was repudiated till the date of its realization. Respondents shall also pay compensation to the tune of Rs 1 Lac along with litigation charges of Rs 50,000 to the appellant.

The aforesaid amounts shall be paid by the respondents to the appellant/ complainant jointly and severally and within a period of 60 days from today failing which interest @ 18% shall be leviable on the amount accruing after the expiry of the period of 60 days. Appeal is accordingly disposed of.

4. The petitioner is before this Commission against this order on the ground that the State Commission has erred in arriving at its finding based on presumptions and is illegal and arbitrary since it has been jointly and severally held liable for a dispute qua opposite party no 2 since it only provides consultancy and assistance in compiling and processing formalities for study in the UK. It is contended that fees was remitted directly by the respondent to opposite party 2 and there was no deficiency in service on its behalf. The State

Commission is alleged to have erred in disregarding the respondent's poor attendance and departure from UK without any intimation and discontinuing the course. It is alleged that the respondent was irregular in his attendance of classes which was reported by opposite party 2 to the UK Border Agency. It is prayed that the State Commission's order be set aside.

5. The respondent has opposed the petition and contended that the order of the State Commission was reasoned and should be upheld. It is his case that the petitioner misled him and did not provide the full details of the programme of study in UK. The course dates were revised to commence from February 2010 and he was required to stay in UK at his own expense. As a consultant, opposite party is alleged to have been deficient in services as he failed to bring the full details of the educational course to the notice of the respondent. It is denied that he had been deficient in attendance.

6. We have heard the learned counsel for the petitioner and the respondent in person and carefully considered the material on record.

7. The petitioner argued as per his short synopsis and stressed that as a consultant he had facilitated the admission of the respondent in the London School of Business Management and his student visa through the appropriate channels. His argument is that he is not liable for the academic aspect of the course or its conduct which is the responsibility of opposite party no. 2. His argument is that there was no deficiency in service as there was no arrangement between him and the respondent for the conduct of the course including its scheduling and associated issues of campus, attendance, etc. The respondent argued that the petitioner had misled him and presented a completely different picture of the college and its academic curriculum and that there was a large gap between the two. He denies irregularity in attendance but submitted orally that in actual fact there was no defined campus of the college and classes were held in different locations. The date of the course was changed twice and he was required to

commence his programme from February 2010 which was not feasible from an economic standpoint for him.

8. From the above, it is evident that the petitioner was responsible for services relating to admission and visa facilitation for the respondent for which a consideration was paid. The respondent has not brought any evidence to prove that the services promised by opposite party 1 included anything to do with the scheduling of classes. There is no material on record to prove that the admission, academic fee and course curriculum/scheduling for the course at the London School of Business Management was part of this consideration. The order of the State Commission has not relied upon any document that establishes the liability of the opposite party for such services or any other document to support the contention that the respondent abandoned the course due to being irregular in attendance. The only evidence provided is an email dated 11.11.2009 that the respondent left the course in November, 2009 on the ground of the illness of his mother in India. The conclusion of the State Commission that the opposite party 1 was guilty of deficiency in services in the delay in the commencement of the course at the college is not sustainable since there is no evidence produced to prove that it was its responsibility or covered under the scope of the services it had promised the respondent.

9. In view of the foregoing, we find merit in the petition which is accordingly allowed. The impugned order of the State Commission is set aside. No order as to costs.