

Date of Filing: 05.05.2023

Date of Order: 07.11.2023

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION – II, HYDERABAD

P r e s e n t

SRI VAKKANTI NARASIMHA RAO ... PRESIDENT
SMT. D.SREEDEVI MEMBER

Tuesday, the 07th day of November, 2023

Consumer Case No. 47/2023

BETWEEN:

1. KVS Appa Rao, S/o Kosuri Apparao Aged about 47 years, Occ: Government Employee Ph: 7382425141.
2. K.Veekshita, S/o KVS Rao, Aged about 11 years, Minor, Rep.by her father, KVS Appa Rao, who is the first complainant.
Both are R/o House No.3-7/3, Plot No.95, Shiva Shakthi Sai Colony, Nagaram, Medchal District. Telangana State.

...Complainants

AND

The General Manager, South Central Railway, Secunderabad,
Telangana State.

.... Opposite Party

This complaint is coming before us on this the 06th day of October, 2023 in the presence of Learned Counsel M/s. P. Santhoshi Kumari, Advocate, appearing for the complainant and Opposite Party called absent and Set ex-parte and on perusal of material papers available on record, having stood over for consideration till this day, the Commission passed the following:

O R D E R

(BY SMT D.SREEDEVI, HON'BLE MEMBER ON BEHALF OF THE
BENCH)

This complaint is filed on 05th May, 2023 by the complainant under Section 35 of Consumer Protection Act, 2019 with a prayer to direct the opposite party to:

1. Pay an amount of Rs.1,00,000/- (Rupees One Lakh Only) to each of the Complainants along with interest @ 24% p.a., from 06.04.2023 to till the date of payments, towards compensation

for causing inconvenience, hardship due to non-functioning of AC and fans in G5 coach.

2. Pay Rs.50, 000/-(Rupees Fifty Thousand Only) towards compensation for deficiency of service, negligence, mental agony, inconvenience, hardship and financial stress.
3. Pay Rs.25, 000/-(Rupees Twenty Five Thousand Only) towards costs of the Complaint.
4. Grant any such other order or orders as the Hon'ble District Commission deemed fit and proper in the interest of justice.

BRIEF FACTS OF THE COMPLAINT:

1. The case of the complainants is that the first complainant has reserved two seats in GARIB RATH (12739) Vide PNR No.6845984534 in 3 AC for himself and his daughter, who is the 2nd Complainant by name K.Veekshita, 11 years to travel from Visakhapatnam to Secunderabad on 05.04.2023. The said tickets were confirmed vide Coach No.G5 and seat no. was 36 & 40. The right time of the train was 20.40 hours at Visakhapatnam.
2. The complainants were boarded the GARIB RATH (12739) Train on 05.04.2023 at Visakhapatnam and the train was started at 20.40 hours and the complainants were completed their dinner and slept at 22.00 hours and woke up around at 00.00 hrs on 06.04.2023 due to suffocation on account of non-functioning of A.Cs and fans, since they were travelling in 3 AC compartment.
3. The first complainant immediately complained to the TTE about non-functioning of A.Cs and fans and also about suffocation. It is submitted that after reaching Rajahmundry, TTE and other Opposite party officials informed the complainants that the problem was due to electrical failure in the train and the same will be solved after reaching Eluru Station. It is submitted that the train reached Eluru Station one hour late, i.e., 1.40 hours, without A.C and fans, the complainants and other passengers were travelled from Eluru to Vijayawada Station and reached at 2.30 hours with great difficulty in view of suffocation. The above said train did not move until 4.40 hours on 06.04.2023 from

Vijayawada station, since the power supply was restored at 4.40 hours on 06.04.2023.

4. The complainants further submitted that from 00.00 hours on 06.04.2023 to 4.40 hours, around more than 4 ½ hours, the complainants and other co-passengers were suffered a lot of suffocation in the above compartment, since there is no ventilation and the windows were sealed with glass, since the compartment is a AC one. As there is no AC and also no ventilation in the coach, the demand for oxygen is as more, inmates of the coach and complainants could not sleep properly in the entire night due to this problem. Added to fuel to fire, there was no water supply near the wash basins and the complainant and his daughter while boarding the train, it is noticed that there were water leakages near the boarding point.
5. The complainants addressed a letter dated 07.04.2023 to the Opposite Party narrating the ordeal faced by the complainants and other co-passengers in the above train on 06.04.2023 due to their negligent services and it caused much inconvenience, hardship and mental agony and demanded the Opposite Party to pay compensation of Rs.1,00,000/- (Rupees One Lakh Only) to each of Complainant. Having received the said letter, the Opposite Party neither replied nor paid the compensation.
6. On the application of first complainant under RTI Act, 2005 dated 13.04.2023, the Opposite Party informed that power supply to AC plants was not available due to non-working of DG sets in the train. Train no.12839 GBR express arrived BZA at 02.38 hrs. The power supply was restored at 4.05 hrs. The train was departure at 04.38 hrs.
7. As per the information furnished by the Opposite Party the power supply to AC plants was not available due to non-working of DG sets in the train. It is clear that the Opposite Party has not verified/checked the entire system of the DG sets, which provide power supply to AC plants, before coming the train on platform and further they failed to rectify the defects immediately on noticing of the problem in DG set. Due to non-working of AC in 3 AC compartment, there was a suffocation in the coach and due to

it, the complainants and co-passengers in Coach No.G5 and other coaches in the above train were experienced very horrible situation for want of AC/air/oxygen more than 4 ½ hrs, that too during the night hours and also summer. The above situation on the night, i.e., on 06.04.2023 was very panic and all the passengers, including the complainants suffered much inconvenience, hardship and unbearable mental agony due to negligent acts of the Opposite Party.

8. Due to negligent acts of the Opposite Party and their officials, the first complainants, his daughter and other Co-passengers in Coach by not knowing the proper reasons for not functioning AC and fans in the coach and also for abnormal delay in rectification of defects in DG sets in train suffered a lot of mental agony and pain that shall not be compensated in terms of money for which the opposite party is held liable for their deficient acts. Hence, the complainant is entitled to claim compensation of Rs.1, 00,000/-(Rupees One Lakh Only) to him and Rs.1, 00,000/-(Rupees One Lakh Only) to his daughter.

No Written Version filed for the opposite party despite Completion of statutory period for which they were Set-ex-parte on 07.07.2023.

1st complainant filed his Evidence affidavit by examined himself as PW1. Ex.A1 to Ex.A4 marked. Complainant filed a memo stating that the evidence affidavit of the complainant may be treated Written Arguments. Heard Oral Submission of the Complainants. On perusal of material available on record the points to be answered for determination are:-

1. Whether any deficiency of service is made-out against opposite party as claimed under the complaint?
2. Whether the complainants are entitled for the relief sought?
3. To what relief?

POINT NO.1 & 2:-

1. There is no dispute that as per Ex.A1 the Complainants have booked third AC tickets in Garib Rath. Vide PNR No.684598434

to travel from Vishakapatnam to Secunderabad on 05.04.2023 and the said tickets were confirmed vide coach no.65 and Seat numbers: 36&40. The right time of the train was 20:40 hours at Visakhapatnam.

2. The complainants contended that the complainants boarded the Garib Rath(12739) Train on 05.04.2023 at Visakhapatnam and the train was started at 20:40 hours, Complainants submitted that after completion of their dinner they slept at 22:00 hours and woke up around at 00.00 hrs on 06.04.2023 due to suffocation on account of non-functioning of ACs and fans, since they were travelling in 3AC Compartment for which the 1st complainant made a complaint immediately to the TTE about non-functioning of the ACs fans. The TTE and other Opposite party officials informed the Complainant No.1 that the problem was due to electrical failure in train and the same will be resolved after reaching Eluru Station and that train reached to Eluru Station one hour late i.e., 1:40 hours.
3. Without AC and Fans, the Complainants and other passengers were travelled from Eluru to Vijayawada Station and reached at 2:30 hours with great difficulty in view of suffocation. The said train did not move until 4:40 hours of 06.04.2023 from Vijayawada station since the power supply was restored at 4:40 hours on 06.04.2023. The Complainants stated that more than 4 ½ hours, the complainants and other passengers were suffered a lot of suffocation in the said train compartment, since there is no ventilation and the windows were sealed with glass, since the compartment is a AC one. Admittedly as there is no ventilation in the coach, the demand for Oxygen is required more, and they could not sleep properly in the entire night due to this problem. There were no water supply near the wash basin and the Complainants while boarding the train, it is noticed that there were water leakages near the boarding point. The contentions stated supra has neither denied nor disproved by the opposite party.

4. It is evident under Ex.A2 the Complainant No.1 have sent a letter to Opposite party on 07.04.2023 for refund of fair and compensation due to service failure and lot of inconvenience.
5. Ex.A3 reply letter from Opposite party on 24.04.2023 to Complainant No.1 and clearly stated in that remarks columns as

i) "Power supply to AC Plants was not available due to non-working of DG Sets in the train and there is no interruption of power supply to lights in the train. Train no.12839 GBR Express arrived BZA at 2:38 hours. The power supply was restored at 04: 05 hrs., and also stated Train No.12739 of 05.04.2023 arrived BZA with delay of 29 mins, and left BZA with delay of 133 mins, the departure time from BZA IS 04:38 hrs. The Opposite Party has admitted in this letter that "power supply to AC Plants was not available due to non-working of DG sets".

The Opposite Party is big public sector and it is the duty of the Opposite party to check the entire system of DG Sets that provided supply to AC plants, before the train came on the platform. The failure of the AC and delay in travelling clearly shows the negligence and deficiency of service on the part of the Opposite party. The Complainants have booked train tickets for journey in third AC class but they have suffered pain and hardship due to non-functioning of AC and fans in the Compartment although they charged fare for third AC. Moreover, the Opposite Party have received notice from this Commission, but not contested the case. The act of the Opposite Party clearly evident for negligence and deficiency in service for which we answered these points accordingly in favour of t he Complainants.

POINT NO.3:-

In the result the Complaint is allowed in part and directing the Opposite Party to:

1. Pay an amount of Rs.10, 000/- (Rupees Ten Thousand Only) towards compensation for causing mental agony physical trauma caused to the complainants.

2. Pay Rs.5, 000/- (Rupees Five Thousand Only) costs of the Compliant.
3. Rests of the claims made by the complainants are dismissed.
4. Time for compliance is 45 days from the date of receipt of this order.

Dictated to Stenographer, Typed by her, corrected and pronounced by us in the open Commission today the 07th day of November, 2023.

MEMBER

PRESIDENT

APPENDIX OF EVIDENCE

Witnesses examined for Complainants:-

Mr.KVS Appa Rao (PW1)

Witnesses examined for Opposite party:-

Set ex-parte

Exhibits marked on behalf of the Complainants:-

Ex.A1: is the copy of ticket booked by the Complainants.

Ex.A2: is the copy of letter dated 07.04.2023.

Ex.A3: is the copy of letter dated 24.04.2023 from the Opposite party.

Ex.A4: is the copy of photograph.

Exhibits marked on behalf of the Opposite party:-

--Nill--

MEMBER

PRESIDENT