

ADDITIONAL BENCH

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
PUNJAB, CHANDIGARH.**

First Appeal No.48 of 2023

Date of institution : 05.01.2023

Reserved on : 17.10.2023

Date of decision : 02.11.2023

Kuldip Kumar son of Shri Lal Chand resident of # 107/C, Ravinder Nagar, P.O. Model Town, Jalandhar-144003 Mobile No.98726-27283

Appellant/Complainant

Versus

1. Food Corporation of India through the Divisional Manager, Divisional Office, S.C.O. 48, Ladowali Road, Opposite Tehsil Complex, Jalandhar-14400.
2. Food Corporation of India through the General Manager, (R), Regional Office (Punjab), BAY No.34-38, Sector: 31A, Chandigarh-160017.

.....Respondents/Opposite parties

First Appeal Under Section 41 of the Consumer Protection Act, 2019 against the order dated 31.10.2022 passed by District Consumer Disputes Redressal Commission, Jalandhar.

Quorum:-

**Mr. H.P.S. Mahal, Presiding Judicial Member
Mrs. Kiran Sibal, Member**

Argued by:-

For the appellant : Sh. Kuldip Kumar, In person
For respondents : Ms. Ruchi Sekhri, Advocate

KIRAN SIBAL, MEMBER

The instant appeal has been filed by the appellant/complainant against the impugned order dated 31.10.2022 passed by the District Consumer Disputes Redressal Commission,

Jalandhar (in short "District Commission"), whereby the complaint filed by the complainant against opposite parties (in short 'OPs'), under the Consumer Protection Act, was dismissed.

2. It would be apposite to mention that hereinafter the parties will be referred, as have been arrayed before the District Commission.

3. Brief facts of the case for disposal of the appeal are that the complainant, being a retired government employee of OPs, was entitled to avail medical facility for himself and his spouse under Medical Health Scheme of OPs notified vide Circular No.48 of 1999 bearing File No.EP.43111//90-Vol.III dated 15.12.1999, circulated by OP No.1 vide endorsement No.Admn/A-17(3)/Medical/99/14225 dated 22.02.2000. A medical identity card was also issued by the OPs in favour of the complainant. The said scheme was modified vide circular dated 28.10.2004 and reimbursement was allowed upto Rs.5,000/- per annum financial year for OPD treatment with the annual ceiling of Rs.50,000/- in the existing scheme on the treatment of certain prolonged diseases subject to the condition that the retired employee had to obtain a medical certificate from the specialized Doctor of Government Hospital/empanelled hospital/Medical Officer of the FCI, which was to be valid for three years. Further, the said scheme was modified vide circular dated 20.10.2006 and as per the modification, the member of the scheme would be eligible for reimbursement of expenditure incurred for indoor/outdoor treatment up to Rs.1,00,000/- against the existing Rs.50,000/- for every financial year, with expenditure on outdoor treatment for special diseases being limited to Rs.10,000/- within the annual ceiling of Rs.1,00,000/-. Again, vide circular dated 09.03.2015,

with a view to simplify the procedures for reimbursement of Bills related to Medical treatment of FCI beneficiaries, the issue of removal of condition of submission of essentiality certificate was examined in consultation with the standing Committee of FCI Headquarters. Accordingly, the existing condition of submission of Certificate-A (for OPD) and Certificate-B (for IPD) duly filled/certified for reimbursement of medical bills was dispensed with in respect of treatment taken by FCI beneficiaries from Government Hospital/FCI empanelled Hospital/FCI Doctor. To fulfill the requirement of circular dated 28.10.2004, the complainant after obtaining the required certificate dated 12-5-2020 issued by Dr. Sujit S. Sawadtkar MD (Medicines) DNB (Cardiology) Interventional Cardiologist, for himself and certificate dated 12-5-2020 issued by Dr. Tarun Aggarwal M.D (Internal Medicine) Specialize in Diabetes, Thyroid & Non-Invasive Cardiology in respect of his wife Smt. Satish Kumari, submitted the same to the Divisional Manager, Food Corporation of India, Jalandhar on 4 June, 2020. The OPs Vide circular No.EP-12-2016-23 dated 30th Dec. 2016 issued from file No.EP 43(06)/2016 the Headquarters of respondents Food Corporation of India, New Delhi had circulated the approval of Ministry of Consumer Affairs, Food and Public Distribution, Department of Food and Public Distribution, New Delhi as conveyed to FCI vide their letter No.16-1/2011-FC-1 dated 11.11.2016 for Post Retirement Medical Scheme (PRMS) of the Corporation applicable to the Employees of the Corporation (Category I, II, III and IV) only in supersession of the Medical Scheme for Retired employees issued vide No.48/1999 dated 16.02.1999 as amended from time to time. Further, in the circular ibid

dated 30th December, 2016 Headquarters FCI, New Delhi had clarified that in respect of Departmental workers, the existing Medical Scheme and instructions issued vide Circular No.48/1999 dated 16.02.1999 and as amended vide Circular No.EP-12-2012-13 dated 28-06-2012 and clarificatory circular No.EP-12-2013-03 dated 08.02.2013 would continue to be applicable as amended from time to time. The complainant submitted two claims for himself and his wife on 7th June, 2021 under Speed post, which were cleared/passed and an amount of Rs.1898/- was credited on 28th June, 2021 in the saving account of complainant in SBI, Mithapur Road, Jalandhar for eligible items and after deducting Rs.50/- as token annual membership fee. The complainant submitted an another claim with the OPs vide diary No.2597 dated 18.08.2021 for the sum of Rs.7155/- but he was not aware about the fate of the said claim as to whether the same had been referred to the Medical Officer or payment had been received/made to the complainant. The OPs had neither complied with the instructions issued vide various circulars as mentioned above nor with directions issued by the Hon'ble Apex Court, which amounted to deficiency in service on the part of the OPs. Therefore, the complainant filed a consumer complaint before the District Commission and sought directions against the OPs to release/disburse the payment of Rs.7155/- along with interest and further to pay a compensation and punitive damage for mental tension paid and agony to the tune of Rs.75,000/- and Rs.5000/- as litigation expenses.

4. Notice of the complaint was given to the OPs, who filed their joint written reply and contested the complaint by taking preliminary

objections which are not required to be reproduced here for the sake of brevity. On merits, the OPs stated that the claim of the complainant was passed on 07.09.2021 for Rs.7,618/- instead of Rs.7,155/- as the total bill amount was Rs.7,618/- and the complainant had been paid the said amount on 18.09.2021 and that was much prior to the filing of the complaint. Since the complainant had already received the due payment, he had no cause of action to file the present complaint. After denying the other averments made in the complaint, the OPs prayed for dismissal of the complaint.

5. In rejoinder to the written reply, the complainant stated that as per point No.7.10 of the Circular, the OPs were required to ensure timely and hassle free disposal of the claims within a period of 15 working days of the receipt of claims, if were not referred to the Medical Officer. The complainant preferred the claim of Rs.7,155/- on 18.08.2021 but the actual amount of Rs.7,613/- was released to him on 18.09.2021 with a total delay of 26 days. The complainant alleged that the OPs intentionally delayed the medical claims submitted by him, which amounted to deficiency in service, therefore, he prayed for acceptance of the complaint.

6. The parties led their evidence before the District Commission in support of their respective contentions. The District Commission after going through the record and hearing learned counsel for the parties, dismissed the complaint, vide impugned order. Aggrieved with the same this appeal has been filed by the appellant/complainant for setting aside the same.

7. We have heard the appellant in person and learned counsel for the respondents and have also carefully gone through the record on the file and written submissions filed by the appellant.

8. The appellant/complainant, has vehemently contended that the District Commission has not bothered to give cognignence to the record and written arguments submitted by him. He further contended that the District Commission has failed to consider the fact that as per circular bearing No.FIN/32/1/MISC/2017-18 dated 02.06.2017 issued by the respondents, the payment on account of medical expenses were to be made with 4 days from the date of its presentation in the finance department. It has been submitted that the bills were presented before the Finance Department on 18.08.2021 but the payment was made by the OPs on 18.09.2021 i.e. after delay of 26 days, which amounted to the deficiency in service on their part. The appellant further argued on the similar lines as stated in the complaint as well as rejoinder and prayed for acceptance of the present appeal.

9. On the other hand, the learned counsel for the respondents/OPs argued that the District Commission has rightly dismissed the complaint after duly appreciating the facts and evidence on record and there is no perversity and illegality in the said order. The learned counsel further argued that neither the complaint nor the appeal is maintainable being infructuous as the due amount, which infact more than the claimed amount, has already been credited in the account of the appellant/complainant within the stipulated period and nothing remains payable to him. The learned counsel further argued on the

similar lines as stated in the written reply and prayed for dismissal of the present appeal.

10. We have given thoughtful consideration to the rival contentions raised by the parties and have perused the record on the file.

11. Admittedly, the appellant/complainant was entitled to get medical reimbursement facility, after his superannuation, under medical health scheme issued by the respondents/OPs vide various circulars from time to time and accordingly he submitted the claim of Rs.7,155/- on 18.08.2021 with the OPs for reimbursement of the same. It is also not in dispute that the respondents/OPs credited an amount of Rs.7,613/-, against the claimed amount of Rs.7,155/-, in his account on 18.09.2021. The appellant/complainant alleged that the reimbursement of his medical claim, was to be made within 4 days but the respondents/OPs intentionally delayed the payment of his genuine claim and harassed him. Alleging deficiency in service on the part of the respondents/OPs, he preferred a consumer complaint before the District Commission, which has been dismissed vide impugned order. Aggrieved with the same the present appeal has been filed by him for setting aside the impugned order.

12. The grievance of the appellant/complainant is that the District Commission has failed to appreciate the fact that there is deficiency in service on the part of the respondents/OPs for non-payment of medical claim/bills in the stipulated time frame as per the instructions issued vide circular dated 02.06.2017 by the Head Office.

13. The only point for consideration before us is whether the respondents/OPs delayed the payment of the medical bills/claim submitted by the appellant/complainant or not? The version of the appellant/complainant is that vide letter dated 17.08.2021, Ex. C-14, he delivered the medical claim for reimbursement of Rs.7155/- in the office of respondent No.1, which was diarized vide No.2597 dated 18.08.2021, and as per circular issued vide No.FIN/32/1/MISC/2017-18 dated 02.06.2017, Ex. C-15, the claim of the complainant was to required to be made within 4 days from receipt of the same in finance. On the other hand, the version of the respondents/OPs is that the medical bills/claim submitted by the appellant/complainant on 18.08.2021 was passed on 07.09.2021 for Rs.7,618/- instead of claimed amount of Rs.7,155/- and the same had been cleared and paid in his account on 18.09.2021, which is well within the time frame of 30 days. In support of her contention the learned counsel relied upon clause 7.10 of the circular dated 30.12.2016, placed on record by the appellant/complainant before the District Commission as Ex. C-9. It is relevant to discuss the said clause 7.10 of the circular, Ex.C-9, which is reproduced as under:-

“7.10. Where claims are required to be forwarded to Medical Officers as per instructions, it would be the responsibility of the Drawing and Disbursing Office of the concerned office to forward the claim to the Medical Officer within 15 working days of the receipt of claim. Medical officer would be required to verify the claim within 30 working days from the date of receipt of the claim. The complete processing of the claim will be completed within 60 working days falling which concerned erring official/officer shall be liable for administrative action.”

The above said clause of the circular is applicable where the claims are required to be forwarded to Medical Officers. But the respondents/OPs failed to prove on record that the claim submitted by the

appellant/complainant was to be forwarded to Medical Officer for its scrutiny. Moreover from the perusal of Ex. C-14 i.e. claim submitted by the appellant/complainant shows that the appellant and his wife had taken treatment from NHS Hospital Jalandhar and the nature of the treatment was in OPD not indoor treatment. Further, the appellant/complainant has specifically mentioned in his complaint that he and his wife are chronic patients and they have obtained the required certificate dated 12-5-2020 issued by Dr. Sujit S. Sawadtkar MD (Medicines) DNB (Cardiology) Interventional Cardiologist, for himself and certificate dated 12-5-2020 issued by Dr. Tarun Aggarwal M.D (Internal Medicine) Specialize in Diabetes, Thyroid & Non-Invasive Cardiology in respect of his wife Smt. Satish Kumari(Ex. C-8), which were valid for three years as per clause 7.9 of the circular dated 30.12.2016, Ex. C-9. Accordingly, the appellant/complainant proved on record that he submitted the medical bills/claim for reimbursement on account of taking OPD treatment for himself and his wife for chronic diseases. Therefore, the question of referring the medical claim to the Medical Officer does not arise. In support of his contention, the appellant/complainant relied upon instructions issued by the Food Corporation of India, Finance Division, vide circular No.FIN/32/1/MISC/2017-18 dated 02.06.2017, Ex. C-15. A perusal of said circular shows that instructions have been issued by the headquarter of the OPs to them wherein time limit to clear the bills have been stipulated. The relevant part of the said circular is reproduced as under:-

“A few References have been received regarding delay in payment of bills in various field offices.

In this regard, also refer to FCI Citizen Charter wherein time limit to clear the bills have been stipulated. The time limits given are:

1. *Examination and passing of third party bills within 6 days from receipt of bills in finance.*
2. *Examination and passing of employees/ex-employees bills within 4 days from receipt of bills in Finance.*

It is reiterated to all concerned to adhere to time limit stated above.....”

As per instructions issued vide above said circular the bills of ex-employees should be passed within 4 days from the receipt of the bill in Finance. The respondents/OPs have admitted in their reply that the medical bills/claim submitted by the appellant/complainant on 18.08.2021 was passed on 07.09.2021 for Rs.7,618/- and the same had been cleared and paid in his account on 18.09.2021 i.e. after a period of 30 days from the date of its submission. It is not the case of the respondents/OPs that the medical bills/claim has not been submitted by him in its finance department. Moreover, the onus to prove that the same were not submitted in its finance department was on the OPs, which they failed to establish by leading any cogent evidence. Accordingly, the appellant/complainant has duly establish by leading cogent evidence on record that the respondents/OPs have delayed reimbursement of his medical bills/claim by 26 days, which amounts to deficiency in service on their part, for which he is entitled for a reasonable compensation and litigation charges.

14. A sequel to our above discussion, the present appeal is partly allowed and order of the District Commission is set aside.

Accordingly, the complaint filed by the complainant is also partly allowed against respondents/opposite parties. Since, the medical bills/claim has already been paid, the respondents/OPs are directed to pay only the composite amount of compensation & litigation expenses to the tune of Rs.10,000/-.

15. The respondents/Opposite parties are directed to comply with the order within 45 days from the date of receipt of certified copy of this order.

16. The appeal could not be decided within the stipulated period due to heavy pendency of Court cases.

(H.P.S. MAHAL)
PRESIDING JUDICIAL MEMBER

(KIRAN SIBAL)
MEMBER

November 02, 2023.
(Dv)