

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION,
GURGAON-122001.**

Consumer Complaint No.433 of 2022

Date of Institution: 20.05.2022

Date of Decision: 17.11.2023

Parminder Oberoi wife of Shri Jasbir Singh Oberoi, resident of EW-301, IREO Grand Arch, Sector-58, Gurugram-122101.

.....Complainant

Versus

1. Yatra Online Pvt. Ltd. Gulf Adiba, 4th Floor, Plot No. 272, Phase II, Udyog Vihar, Sector 20, Gurugram-122008.
2. British Airways (Corporate Office) DLF Qutab Enclave, DLF Plaza Tower, 6th Floor, Gurgaon -122002--Through Its Branch Head.

.....Opposite parties

Complaint under Section 35 of Consumer Protection Act, 2019.

**BEFORE: SHRI SANJEEV JINDAL, PRESIDENT.
MS. JYOTI SIWACH, MEMBER.
MS. KHUSHWINDER KAUR, MEMBER.**

Present: Shri Jasbir Singh Oberoi , A.R. of the complainant.
Shri Vibhor Aggarwal, Advocate for the OP No.1.
Shri Sumit Vats, Advocate for the OP No.2.

ORDER SANJEEV JINDAL, PRESIDENT.

Heard on the complaint in question in the light of the pleadings of both the parties coupled with the evidence adduced by them in support thereof. The arguments and the rival contentions raised by both the counsel for the parties also stand appraised.

2. Shorn off unnecessary details, briefly stated, it is the case of the complainant that on the advice of the travel agent namely Mr. Avinash Gupta, she booked an Air Ticket of British Airway (OP No.2) for flying on 20.03.2020 from New Delhi to Toronto via London through OP No.1 i.e. "Yatra Online Pvt. Ltd. Via *YATRA BOOKING REF: 130301989881, Flight No.142 British Airways-DEP. 20.03.2020 at 0320 (PNR No. SXHP8L) and return from SAN FRANCISCO to Delhi via London on 31.08.2020*".

At the last moment, the said Mr. Avinash Gupta-travel agent informed the complainant that this flight had been changed by the OP No.2 only up to London coupled with the advice to keep this booking open, so that, it could be used in future when the situation improves.

However, the situation got worsened, consequent upon which, the complainant requested the OP No.1 to cancel this booking with full refund. In response, the OP No.1 informed the complainant that as per the Airline policy, *"This ticket can neither be cancelled nor refunded and only REBOOKING FOR THE SAME PASSENGER FOR SAME ITINERARY IS PERMISSIBLE AND A VOUCHER SHALL BE ISSUED VALID UPTO A CERTAIN DATE TO COMPLETE THIS JOURNEY."* Thereafter, the complainant approached the OP No.2 i.e. British Airways directly, but, they also refused to entertain any such request with the plea each time that only the OP No.1 would handle this issue as the booking had been done through the latter.

After that, the complainant in April,2021 approached the OP No.1 with the request to book a fresh ticket from Delhi To San Francisco and return from Toronto to Delhi but the latter simply refused to do so and instead offered

fresh tickets for this route at much higher rates. In this way, both the aforesaid OPs/respondents had rendered severe deficiency in service.

Since, none of the aforesaid OPs had refunded the booked ticket amount to the complainant, so, the complainant finding no other alternative kept on approaching both the aforesaid OPs in that regard and in the process also visited the office of the OP No.2 at Qutab Plaza, DLF, Phase-I, Gurugram on 31.03.2022. Initially, the OP No.2's Security Officer after talking someone in the office refused to even allow the complainant inside but after the complainant's tough stand, she was allowed inside and made to sit at the reception as no one came to meet her for long time.

In this way, the complainant who was a senior citizen of 71 years was inhumanly humiliated, and, then, she was told to fill up a form detailing the issue which had been sent to concerned officer Mr. Vijay Kumar but to no avail. It prompted the complainant's husband to lodge a complaint No. 3394944 dated 31.3.2022 with NATIONAL CONSUMER HELPLINE, firstly, in his own name, and, then, in the complainant's name on 05.04.2022 (Complaint no. 3404829). Against both these complaints, the respondent No.1 replied that *"Refund against said PNR is not possible, as per Airlines Policy and only rebooking option is available and also said-please be rest assured that their Legal Team will communicate with me and offer the best available resolution."*

To cut the long story short, on account of the unrelented efforts made by the complainant to get her booked tickets' amount back, ultimately, the complainant was informed by the OP No.1 that her tickets had already been

cancelled and that now all that the complainant could be offered was a refund of Rs.4380/-. Hence, this complaint.

In the end, the complainant prayed that she be got awarded full refund of Rs.59,147/- along-with interest @ 12% p.a. from the date of payment till realization, coupled with the prayer to award Rs.50,000/- as compensation to her for deficiency in service, mental harassment and agony along-with costs of litigation. Any other relief which deemed fit by this Court has also been prayed for.

3. Both the OPs in their separate lengthy and bulky written statements consisting of as many as 6 and 11 pages respectively, controverted all the material assertions of the complainant and put forward a number of pleas/defences, which need not to be reproduced and discussed here-in-after, the same, having been made in an attempt to deny the rightful claim of the complainant, based on false, frivolous, misconceived and baseless grounds.

The crux of the defences/pleas taken by the OP No.1 is that it was merely a travel agent who provided just a ticket booking service to its customers and that onus for refund in question was on the British Airlines-OP No.2, as the amount of the booked tickets had been transferred to the OP No.2 by it after deducting its commission.

The crux of the defences/pleas taken by the OP No.2-British Airways is that it had acted in the present matter strictly in accordance with the rules which were applicable to it.

4. At the very outset of the discussion, this Commission has the least hesitation to observe that a number of documents placed on the record of this file by the complainant in support of her claim, including the documents i.e. e-ticket dated 20.03.2020 (**Annexure-C**) from New Delhi to Toronto via London bearing Yatra reference No. 130301989881 for Rs.59,147/-, complaint details bearing Grievance number 3404829 (**Annexure-I**), Email dated 08 April, 2020 (**Annexure J**) & email dated 28.04.2022 (**Annexure-M**), duly and fully confirm and corroborate the aforesaid version of the complainant in toto in absolute terms. It is further mentioned that the contents of the above referred documents need not to be reproduced or discussed here-in-after as the same are self-explanatory, which proves the case of the complainant mentioned above in absolute terms.

In this respect, the submissions made by the OP No.2 British Airways in its evidence in the form of affidavit **Ex.RW2/A** (para 3 & 4 thereof) also confirm the case of the complainant.

5. This Commission also wants to put it on the record of this file that it is very shocking and surprising that both the OPs i.e. Yatra.Com and the British Airways acted hand-in-glove with each other in order to deprive the complainant of her rightful claim, and, in the process, the complainant was compelled/made to run from pillar to post to seek her rightful claim, and, needless to say, that all this happened due to the deplorable and unscrupulous conduct of both the OPs. One can very well feel the plight of a senior citizen of the age of 71 years, that too a lady, who was forced to keep on visiting from one

office to another, sometimes in person and some-times with the help of her husband, but, un-shamefully and un-remorsefully, both the OPs kept on playing their cunning gimmicks by taking false, frivolous. misconceived and baseless pleas for denying the rightful claim of the complainant.

6. It is simply beyond an imagination that the OP No.2-British Airways, first of all, would cancel its scheduled flight, on its own, by way of cutting the same to the half of the journey i.e. only upto London from New Delhi thereby sheelving of the journey from London to Toronto Canada, and, then, to offer only Rs.4380/-against the ticket booking amount of Rs.59,147/-. The amount of the ticket to the tune of Rs.59,147/-had admittedly been paid by the complainant on 20.03.2020, while booking a flight no.142 of British Airways from New Delhi to Toronto via London, and, ultimately, the complainant's husband was offered the amount of Rs.4380/-on 28.04.2022 i.e. to say after the long wait of more than two years, that too, when the complainant's husband did not give up its relentless efforts in getting their rightful claim, for which, they certainly deserve the salutations. At the same time, this conduct of the OPs No.1 & 2 being extremely deplorable is hereby condemned by this Court in the strongest possible words and they are also warned to remain careful in future to desist from such type of un-shameful and un-remorseful misadventures. At the same time, this Commission is of the considered view that it is a fit case where deterrent compensation is also liable to be imposed upon the OPs for their extremely deplorable conduct.

7. Thus, keeping in view all the facts and circumstances of the present case in the light of the aforesaid discussion, we are of the considered view that there did occur deficiency in service on the part of the OPs in not refunding the full amount of the booked tickets i.e. Rs.59,147/-. That being so, the complaint of the complainant is hereby accepted with costs. Accordingly, we direct both the OPs, jointly and severally, to pay the amount of Rs.59,147/- to the complainant along with interest @ 9% per annum from the date of booking of the ticket i.e. w.e.f. 20.03.2020 till the actual realization. We also direct the OPs to pay compensation of Rs.50,000/- to the complainant as has been prayed for by the complainant for suffering mental agony & physical harassment at the hands of both the OPs coupled with deterrent compensation additionally Rs.50,000/- as well as Rs. 33,000/- as litigation expenses. The opposite parties, jointly and severally, shall make the compliance of this order within 45 days from the date of receipt of the copy of this order failing which the additional penal interest @ 12% per annum shall also be paid by the OP to the complainant on the above awarded amount, for the same period, from the date of this order till realization.

8. If the order of this Commission is not complied with, then the complainants shall also be entitled to file the execution petition under Section 71(1) of the Consumer Protection Act, 2019 and in that eventuality, the OPs may also be held liable for prosecution under Section 72 of the said act which envisages punishment with imprisonment for a term which shall not be less than one month, but which may extend to three years, or with fine, which shall not be less than Rs.25,000/-, but which may extend to

Rs.1,00,000/-, or with both. The copy of the order be supplied to the parties free of cost as per the rules. The Order be promptly uploaded on the website of this Commission. File be consigned to the record room, after due compliance.

Announced.
17.11.2023

(Jyoti Siwach)
Member

(Khushwinder Kaur)
Member

(Sanjeev Jindal)
President,
District Consumer Disputes
Redressal Commission, Gurgaon