

STATE CONSUMER DISPUTES REDRESSAL COMMISSION, U.T. CHANDIGARH

[ADDITIONAL BENCH]

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Appeal No	:	A/47/2023
Date of Institution	:	24/03/2023
Date of Decision	:	12/06/2023

Chandigarh Transport Undertaking, Plot No.701, Industrial Area, Phase-I, Chandigarh.

.... Appellant

V E R S U S

Ashish Kumar, Resident of H.No.3293, Housing Board Colony, Dhanas, Chandigarh.

..... Respondent

BEFORE: MRS. PADMA PANDEY PRESIDING MEMBER**PREETINDER SINGH MEMBER**

PRESENT : *Sh. Rajinder Singh, Govt. Pleader for the Appellant.*
 Sh. Ashish Kumar, Respondent in person.

PER PADMA PANDEY, PRESIDING MEMBER

This appeal is directed against the order dated 12.01.2023, rendered by the District Consumer Disputes Redressal Commission-II, U.T. Chandigarh (for brevity hereinafter to be referred as “the Ld. Lower Commission”), vide which, it allowed the Consumer Complaint bearing no.CC/269/2020, in the following terms:-

“8. From the above discussion and findings, we are of the opinion that present Complaint deserves to be allowed. Accordingly, the Complaint is allowed with direction to the Opposite Party to refund the balance pass fare of two months to the Complainant.

This order shall be complied with by the OP within a period of 45 days from the date of receipt of copy of this order, failing which it shall be liable to pay cost of ₹4,000/- also apart from the above relief.”

2. For the convenience, the parties are being referred to, in the instant Appeal, as position held in Consumer Complaint before the Ld. Lower Commission.
3. Before the Ld. Lower Commission, it was the case of the Complainant/Respondent that he obtained a Bus Pass bearing No.201778147 from Opposite Party for a period of 3 months valid from 23.02.2020 to 22.05.2020 on payment of requisite charges. However, due to imposition of Janta curfew on 22.03.2020 and then imposition of nationwide lockdown by the Govt. of India upto 31.5.2020, which was further extended, there was no operation of CTU-OP Buses upto May, 2020. Resultantly, the charges of Bus Pass for two months upto May, 2020, already paid in advance to Opposite Party, remained unutilized as the Opposite Party did not provide any service during that period. Accordingly, the complainant vide letter dated 19.05.2020, followed by reminders through e-mails, requested the Opposite Party to refund the bus pass charges of ₹1860/- paid to it for 2 months for transportation service as the services of Opposite Party was not available during that period. However the Opposite Party neither replied to the request of complainant nor refunded the demanded amount. Hence, the aforesaid Consumer Complaint was filed before the Ld. Lower Commission, alleging deficiency in service and unfair trade practice on the part of the Appellant/Opposite Party.
4. Upon notice, the Opposite Party resisted the consumer complaint inter alia, pleading that the Complainant availed the bus services from 23.02.2020 and thereafter, a nationwide lockdown was ordered by Govt. of India, as a result, there was no operation of CTU Bus Service from 24.03.2020 to 20.05.2020. Thereafter, on 21.05.2020, CTU-OP started bus service with 50% seating capacity and in order to give relief to the passengers, who were already got issued the passes by Sampark Centre, the Opposite Party extended the validity of existing bus passes proportional to the non-operational period vide notification dated 13.08.2020. The Complainant was duly replied & intimated about the said notification vide email dated 18.8.2020. On these lines, the cause was sought to be defended and a prayer for dismissal of the Complaint was made.
5. On appraisal of the pleadings and the evidence adduced on record, Ld. Lower Commission allowed the consumer Complaint of the Complainant/Respondent, as noticed in the opening para of this order.
6. Aggrieved against the aforesaid order passed by the Ld. Lower Commission, the instant Appeal has been filed by the Appellant/Opposite Party.

7. We have heard Sh. Rajinder Singh, Ld. Govt. Pleader for the Appellant/Opposite Party and Sh. Ashish Kumar, Respondent/Complainant in person and have also gone through the evidence and record of the case, with utmost care and circumspection.
8. The core question that falls for consideration before us is as to whether the Ld. Lower Commission has rightly passed the impugned order by appreciating the entire material placed before it.
9. After giving our thoughtful consideration, to the contentions raised and material on record, we are of the considered opinion, that the instant Appeal is liable to be **dismissed** for the reasons to be recorded hereinafter.
10. It is the case of the Appellant/Opposite Party that the Ld. Lower Commission while passing the impugned order has failed to appreciate the documentary evidence available on record, which resulted into perverse finding.
11. Ld. Govt. Pleader on behalf of the Appellant argued that there was neither deficiency in service nor any negligence on the part of the Appellant for the refund of two months bus fare to the Respondent/Complainant as during the period 23.02.2020 to 22.04.2020, the buses of the Appellant/Opposite Party could not be operated due to COVID-19 lockdown. However, on resumption of the bus services with 50 per cent capacity, opportunity to general public as well as Respondent/Complainant was given by publishing public notice in various newspapers to compensate the passengers for renewal of their bus passes, but the Respondent/Complainant failed to exercise the said option and thus was himself negligent for not getting renewed his bus pass and therefore, there was no occasion to refund the amount of fare of bus for two months. However, we are not impressed with this limb of argument, in as much as, when transportation services had not been provided to the Respondent/Complainant during lockdown due to non-operation of buses, then such amount of advance money which was paid to the Appellant/Opposite Party needs to be refunded to the Respondent/Complainant. Noticing the aforesaid facts, the Ld. Lower Commission while holding the Respondent/Complainant entitled for refund of pass fare for unutilized period of two months, has rightly observed that the Appellant/Opposite Party was wrong in turning down the request of the Complainant when no services were provided by it for said period of two months. At any rate, the Appellant/Opposite Party cannot be allowed to reap any benefits from the notification dated 13.08.2020 vide which it extended the validity of existing bus passes proportional to the non-operational period, as the Appellant/Opposite Party cannot force the benefit of the pass to the Respondent/complainant or any other consumer for another period, which may not be suitable to him/them or his/their requirement to get the pass period extended may be no more or non-existing. The Ld. Lower Commission has, therefore, rightly directed the Appellant/Opposite Party to refund the balance pass fare of two months to the Respondent/Complainant. To our mind no case is made for any interference in the findings recorded by the Ld. Lower Commission.
12. No other point was urged, by the Ld. Govt. Pleader for the Appellant/Opposite Party.
13. It is demonstrable from a reading of the impugned Order of the Ld. Lower Commission that it is certainly not an order passed without reasons or without applying the judicious mind. The facts and circumstances of the case have been gone into, weighed and considered, and due analysis of the same has been made. It also does not appear to be an order passed without taking into account the available evidence.

14. In the wake of the position, as sketched out above, we are dissuaded to interfere with the impugned order rendered by the Ld. Lower Commission. The appeal being bereft of merit is accordingly dismissed and the order of the Ld. Lower Commission is upheld.
15. The pending application(s), if any, stand disposed off as having become infructuous.
16. Certified copies of this order be sent to the parties free of charge.
17. The file be consigned to Record Room, after completion.

Pronounced

12th June, 2023

Sd/-

(PADMA PANDEY)

PRESIDING MEMBER

Sd/-

(PREETINDER SINGH)

MEMBER

“Dutt”