

District Consumer Disputes Redressal Commission-I (North District)
[Govt. of NCT of Delhi]
Ground Floor, Court Annexe -2 Building, Tis Hazari Court Complex, Delhi- 110054
Phone: 011-23969372; 011-23912675 Email: confo-nt-dl@nic.in

Consumer Complaint No. 59/2022

In the matter
Sh.MananAggarwal
S/o Sh. Vipul Aggarwal
Office at Chamber No.568-A
Western Wing, Tis Hazari Courts
Delhi-110054

...Complainant

v/s

Northern Railways
Through it General Manager
Baroda House, K.G.Marg
New Delhi-110001

... Opposite party

ORDER
20/12/2023

Ms.Harpreet Kaur Charya, Member

1. Jurisdiction of this commission has been invoked by Sh. Manan Aggarwal, the complainant against Northern Railways, as OP. The complainant, a practicing advocate booked a third AC Train Ticket vide PNR No.2323503348, Coach No.B1, seat No.31, Train No.02416 through IRCTC for journey. On 02/09/2021, the complainant boarded the train from New Delhi Railway Station for his journey to Indore. On 3/09/2021, around 8.00 am in the morning, when, the complainant went to toilet to freshen up, he found that the toilets were filled with filth and there was no water either to flush or wash hands. Further the wash-basin were also choked, filled with dirty water.
2. The complainant searched for the coach attendant but as there was no attendant present, so he lodged a complaint with the images on the official online complaint portal of Indian Railways "Rail Madad" around 8.22 am vide complaint reference No.2021090300392 and tweeted about the same on the official tweeter handle of Railway Minister as well as Railway Sewa. At around 10.00 am train reached its destination at Indore station however, no resolution was given on the complaint. Finally, the complainant had to wait for more than two hours to go for toilet due to which he suffered immense physical pressure, headache and had to take rest thus missing his work.
3. It has been alleged by the complainant that he had booked 3rd AC reserve ticket for comfortable and stress-free journey however, OP failed to provide the basic amenities to the passengers such as clean toilets and water supply in the toilet and wash-basins.

4. Legal notice dated 21/09/2021 was served upon OP however; the same was neither replied nor complied with. The complainant alleging deficiency in service against OP has prayed for directions to OP to:
 - (i) Apologise for harassment and mental as well as physical agony.
 - (ii) Pay sum of Rs.2,00,000/- as compensation for mental as well as physical agony
 - (ii) Pay a sum of Rs.15,000/- towards cost of litigation
 - (iv) Any other order/relief deemed fit in the interest of justice.
5. The complainant has annexed the copy of ID proof as Annexure C-1, printout of the train ticket vide PNR No.2323503348 as Annexure C-2, copies of the complaints dated 03.09.2021 as Annexure C-3 (colly), and legal notice dated 21/09/2021 alongwith postal receipts and tracking report as Annexure C-4 (colly)
6. Notice of the present complaint served upon OP however, no written statement was filed on behalf of OP within the statutory period, hence, right to file written statement by OP was closed vide order dated 25/05/2022.
7. Evidence by way of affidavit was filed by the complainant where he has repeated the content of his complaint. He has got exhibited copy of ID proof as Ex.CW1/1 printout of the train ticket vide PNR No.2323503348 as Ex.CW1/2, copies of the complaints dated 03.09.2021 as Ex.CW1/3(colly), and legal notice dated 21/09/2021 along with postal receipts and tracking report as Ex.CW1/4(colly)
8. We have heard the arguments of the complainant appearing in person and Ld. Advocate for OP and we have also gone through the written argument filed by the OP. The complainant has alleged that OP was deficient in rendering services by not providing the basic amenities of clean toilet and water. The complainant had booked his ticket vide PNR No.2323503348 for his journey from NDLS to Indore JN BG (Ex.CW1/2). The complainant has also placed on record the photographs as well as the screenshot of the complaint posted on the 'Rail Madad' as well as on Twitter handle of OP as 'Railway Seva' (Ex.CW1/3 colly).
9. In the written arguments the OP has raised an objection that the service as provided by the OP was for travelling, which was duly provided and the 'toilet' is an amenity/convenience provided by the railway free of cost to the passengers hence, it does not come under the 'Service' as defined under Consumer Protection Act 2019. This defence of OP does not hold any ground as the toilets and water are the basic amenities which cannot be denied to the passengers.
10. As per the Citizen's Charter on passenger Services of Indian Railway :-
"Passengers Amenities :- Basic facilities like booking arrangements, waiting hall, benches, Lighting, drinking water, platform, urinals, shady trees shall be available at all the regular stations. On board a train, lighting and fans, cushioned berths, tickets, reservation charts and destination board will be available. TTE/conductors, etc. shall also be available to attend to complaints/grievances."
13. Further, as per Duties of sleeper class and coach travelling ticket examiner and conductor:-
"(B) He shall ensure cleanliness in the coach and also ensure that the doors of the coaches are kept closed while on run. The doors of the vestibules are to be kept closed between 22.00 hours to 6.00 hours and he shall take care of passenger amenities and cleanliness of the coaches."
Even it is the duty of the Coach attendant, to ensure that bathrooms, compartments, corridors, wash basins and mirrors are cleaned by Safaiwala at regular intervals.

14. Thus, it is clear that it is the duty of the TTE, Coach Attendant to make sure that the toilets and washbasins are clean. As OP's right to file Written Statement has been closed, however, OP has filed certain report from DRM office West Central Railway vide diary No.325 on 10/03/2023, which is after the present complaint was reserved for orders. Thus, these documents' cannot be considered. However, we have gone through the documents wherein they have stated that the grievance of the complainant was addressed. We are unable to find any feedback stating that the complainant was satisfied/unsatisfied with the redressal of his grievance as required under 'Rail Madad, Grievance Redrassal Mechanism'. Thus, the allegations made by the complainant have remained unrebutted. In the absence of any such document, the benefit is to be given to the complainant.

15. OP has failed to provide basic amenities of clean toilet and water, as required under the 'Citizen's Charter' which definitely amounts to deficiency in services.

15. Therefore, in the facts and circumstance of the present case we direct OP to pay lump sum of Rs.30,000/- as compensation on account of physical and mental agony. We further award Rs.10,000/- as litigation expenses.

The order be complied within 30 days from the date of receipt of this order. In case of non-compliance Rs.40,000/-(30,000/-+10,000/-) shall carry interest @7% p.a. from the date of order till compliance.

Office is directed to supply the copy of this order to the parties as per rules. Order be also uploaded on the website. Thereafter, file be consigned to the record room.

(Harpreet Kaur Charya)
Member

(Divya Jyoti Jaipurjar)
President