

**BEFORE THE TELANGANA STATE CONSUMER DISPUTES
REDRESSAL COMMISSION : HYDERABAD.**

**F.A.No.353 OF 2019
AGAINST ORDERS IN C.C.154/2017,
DISTRICT CONSUMER COMMISSION- RANGA REDDY
DISTRICT**

Between:

The Depot Manager, Dilsukhnagar,
T.S.R.T.C, Hyderabad-2,
Ranga Reddy District.

.....Appellant/Opposite Party

And:

Ch.Nagender, S/o Late Malhari,
Age : 66 years, Occ.: Pensioner/Advocate,
R/o H.No.4-9-40, Prashanthi Nagar Colony,
Sangareddy (T) & District.

.....Respondent/Complainant

Counsel for the Appellant/Opposite Party : M/s Gaurav Kwatra &
Associates.

Counsel for the Respondent/Complainant : Party-in-person

QUORUM :

**HON'BLE SMT. MEENA RAMANATHAN, I/c PRESIDENT
&
HON'BLE SRI. K. RANGA RAO, MEMBER - (JUDICIAL)**

**FRIDAY, THE 18th DAY OF AUGUST
TWO THOUSAND TWENTY THREE**

Order : (HON'BLE SMT. MEENA RAMANATHAN, I/c PRESIDENT)

1. This appeal is filed by the Appellant/Opposite Party U/s. 15 of the Consumer Protection Act, 1986, praying this State Commission to set aside the order dated 27.03.2019 passed by the District Commission, Ranga Reddy in CC No.154/2017 and pass such other order or further orders as this Commission may deem fit and proper in the interest of justice.

2. For the sake of convenience, the parties are referred to as arrayed in the complaint. The Appellant was the Opposite Party and Respondent was the complainant in the C.C.No.154/2017.

3. The complainant is an Advocate and retired Government Employee. The complainant boarded the opposite party's bus bearing No.TS08 UA-4339, Hyderabad-2, at 10:26 hours, on 28.01.2017 to travel from Sanga Reddy X Roads to Bidar, vide bus ticket No.TNA 132806 for Rs.72/-, the bus was packed with passengers and some were standing including himself.

4. As per the circular dated 02.02.2010 and 11.03.2013 the seat numbers 14, 15 and 16 in a bus are reserved for senior citizens but in the said bus they failed to implement the reservation of seats to senior citizens and not earmarked their seats in white painted letters for easy identification and for occupation of senior citizens. The complainant being a kidney patient faced a lot of inconvenience due to standing in the bus and also suffered knee pains. Due to non-reservation of seats for the senior citizens, he was deprived the legitimate right leading to negligence and harassment coming under the category of deficiency in service under the C.P.Act, 1986. On 31.01.2017 the complainant issued a legal notice to the opposite party but there was no response from them. The Corporation of the opposite party also fixed labels on the bus stating that the Corporation is depending on the passengers but they are negligent to passengers especially to the senior citizens, hence, prays this Commission, for a direction to the RTC in this regard.

5. The Opposite Party filed their written version stating that bus concerned was full of passengers on 28.01.2017 and travelling from the starting point by purchasing tickets to Hyderabad i.e. last destination and in the middle of the journey it is not possible to vacate the specified seats of senior citizens, MLA/MPs/MLC and others, so the complainant's request was not considered by the service conductor. The said bus conductor tried his level best to vacate seats for senior citizens, but the ticket holders refused to vacate the seats for senior citizens. The TSRTC is providing seats reserved for the special category persons by earmarking the seats with visible paint so as to be identified easily by the passengers. The paint had become faded in the said bus. The office has taken

steps and repainted the special category seats with fresh paint. The opposite party Depot Manager, apologized for the inconvenience caused to the complainant and the complainant to excuse him and drop the complaint.

6. Before the District Commission, the complainant filed his evidence affidavit as PW1 and got marked Ex.A1 to A6 and Sri E.V.Satyanarayana, Depot Manager of the opposite party is examined as DW1 and marked Ex.B1 to B3.

7. The District Commission after hearing and considering the material on record allowed the complaint and the opposite party is directed to refund the ticket amount of Rs.72/- (Rupees seventy two only) and to pay a compensation of Rs.10,000/- (Rupees ten thousand only) towards mental agony and deficiency in service, hardship caused to the senior citizen and to pay the costs of Rs.5,000/- (Rupees five thousand only) as litigation expenses. Time for compliance is 30 days, failing which an interest @ 12% per annum shall be levied on all the above amounts from the date of default till realization.

8. Aggrieved by the said order, the Appellant/Opposite Party preferred the present appeal with the following grounds:-

- The order of the District Commission is contrary to law, weight of evidence and probabilities of the case and liable to be set aside.
- The order of the District Commission ought to have considered that the TSRTC had specifically issued a circular and also allotted certain seats in each bus for senior citizens which is admitted by the complainant.
- The order of the District Commission ought to have considered that when he boarded the bus, it was over crowded with passengers who had occupied the seats at Bidar. The MP/MLA/MLC seats were also occupied by senior citizens and it was mentioned in the booking chart/record on the particular day i.e. 28.01.2017.

- The order of the District Commission ought to have considered the duty booking chart of conductor and ticket purchased details which has been filed by the appellant.
- The order of the District Commission ought to have considered the fact that there is no assurance given by the TSRTC to the complainant regarding availability of the seat and there is no deficiency of service and ought to have considered that the complainant did not make any complaint whatsoever either to the conductor of the bus or to the Depot Manager about the non-availability of bus seat but got issued legal notice, dated 31.01.2017.
- The order of the District Commission ought to have considered that the complainant has not requested the conductor to vacate any seat at the place of boarding at Sanga Reddy and ought to have considered the fact that the Respondent has not filed any documents to proof that he is suffering with kidney disease and back pain.
- The order of the District Commission ought to have considered that there is no deficiency of service on the part of the Corporation.
- The order of the District Commission did not give any reasons for awarding compensation of Rs.10,000/- along with costs of Rs.5,000/- and directed to refund the ticket amount of Rs.72/- the same is unjustified and the complainant is not entitled for the same.

9. Heard both sides and considered the written arguments filed by the Appellant and perused the material on record.

10. The points that arise for consideration are whether the impugned order passed by the District Commission suffers from any error or irregularity or whether it is liable to be set aside, modified or interfered with in any manner- to what relief?

11. The complainant is a senior citizen and claiming to be suffering from kidney ailments and knee pain- boarded Bus No. No.TS08 UA-4339, Hyderabad-2, at 10:26 hours, on 28.01.2017 to travel from Sanga Reddy X Roads to Bidar, he paid Rs.72/- for the ticket and this is filed as Ex.A1. His main grievance is that

although the opposite party have issued circular No. 07/2010-OPD(P), dated 02.02.2010 of APSRTC and Circular No.08/2013 – OPD(P) dated 11.03.2013 of APSRTC, expressly stating that seat No.'s 14,15 & 16 are reserved for senior citizens, the same is not being implemented and for this gross deficiency and negligence, he has approached the District Forum for redressal.

12. A keen perusal of the impugned order and material on record reveals that entire reliance is based on the circulars filed vide Ex.A4 & A5. The two exhibits are reproduced for a better appreciation of the case on hand. *“The matter has been examined-said the competent authority ordered to increase the seats reserved for senior citizens from two to three and the following instructions are issued for compliance by all the Depot Managers:*

i) The first row left side seat (Window) in City Ordinary/M.Exp./M.Deluxe has been reserved for physically disabled persons and the other seat besides the PHC seat will now be earmarked to the senior citizens.

ii) The two seater behind the left side first row be allotted and earmarked to senior citizens only.

iii) In some of the city buses there is also one single set provided besides the driver which seat is allotted for lady passenger (wherever available).

iv) In District type services the following seats shall be earmarked for occupation of MLAs/MPs/MLCs, Senior Citizens and Physically challenged persons.

13. Ex.A5 is the circular stating that seat No's 14, 15 & 16 are earmarked for senior citizens. It is further stated that if the seats meant for senior citizens/Physically Handicapped are already occupied by others, the conductor shall pursue to vacate the seats facilitating the senior citizens/Physically handicapped to occupy these seats.

14. The Forum below has merely concluded that mere issuance of the circulars and painting the reserved seats for easy

identification is not enough. The bus driver and conductor must be trained to execute and ascertain that the reason for issuing the said circulars is being properly implemented. On this basis, the order was passed in favour of the Appellant/Opposite Party and the Respondent/Complainant was directed to compensate him for the inconvenience suffered.

15. The Forum below grossly erred in not taking into account the pleadings and defense raised by the Appellant/Opposite party. The bus bearing No.TS08 UA-4339, Hyderabad-2, starts at Sanga Reddy X Roads to Bidar and the complainant boarded the bus at Sanga Reddy X Roads to travel to Bidar. The bus was already over crowded as admitted by both parties. The reserved/earmarked seats were already occupied by Senior Citizens and therefore, the complainant could not be accommodated. They have also contended that if had he requested the conductor, the conductor would have offered his seat to him.

16. The dispute raised by the Appellant/Opposite Party is plausible and cannot be brushed aside in such an off hand manner. The route is a busy one and seats earmarked are naturally occupied at the starting point and like many other passengers, the complainant must have faced the hardship of standing throughout the journey but he chose to travel on a crowded bus instead of waiting for the next bus, which perhaps would have been less crowded.

17. This appeal is devoid of any substance or evidentiary value. Merely relying on circulars and contending deficiency in service is not only vexatious, but most unreasonable. The Respondent/Complainant has failed provide the material evidence that the earmarked seats were not occupied by senior citizens thereby, being so harassed. In the absence of any material proof, the Forum below gravely erred in holding the Appellant/Opposite party responsible for deficiency in service.

