

**IN THE CONSUMER DISPUTES REDRESSAL COMMISSION,
THIRISSUR**

Present : Sri. C.T. Sabu / President
Dr. K. Radhakrishnan Nair, Member
Smt. Sreeja S. Member

15th day of January 2021

CC 435/14 filed on 02/08/2014

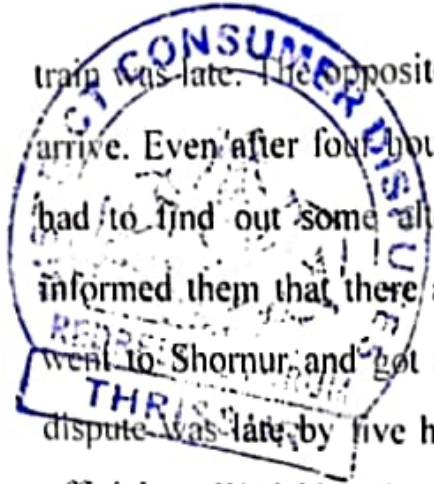
- Complainants** : 1) M.M. Babu, Malayil Kalappurakkal House,
Kundukkad P.O., Thrissur.
2) P.S. George, Puthen Veedu,
South Kondazhy P.O., Thrissur.
3) K.M. Joy, Kalappurakkal House,
Kundukkad P.O., Thrissur.
(By Adv. A.D. Benny, Thrissur)
- Opposite Parties** : 1) Station Suprand, Wadakkanchery Railway Station,
P.O. Wadakkanchery, Thrissur.
2) Senior Divisional Commercial Manager,
Senior Divisional Commercial Branch, Palakkad,
Pin – 678 002.
(By Adv. P.S. Ajithkumar, Thrissur)

ORDER

By Dr. K. Radhakrishnan Nair, Member :

Gist of the Case :

Complainants are three in numbers. Opposite parties are Station Superintendent of Wadakkanchery Railway Station and Senior Divisional Commercial Manager, Palghat. Complainants had booked three seats in the Mangalore Express Train No. 16347 in order to travel from Wadakkanchery to Payyannur on 09/10/2013 paying Rs.705/- towards ticket charges. 02473549 is the Ticket Number. Arrival time of the train was 3.20 AM. As alleged, the complainants though arrived at Wadakkanchery Railway Station before the Scheduled time to board the train they could not travel as scheduled due to the callous and irresponsible functioning of the opposite parties. As announced the



train was late. The opposite parties could not specify at what time the train will arrive. Even after four hours of waiting no information was available and they had to find out some alternate ways to travel. In the meantime somebody informed them that there are trains available from Shornur. Immediately they went to Shornur and got a train to Payyannur. It was learnt that the train in dispute was late by five hours. The most pathetic aspect was that the staff or officials at Wadakkanchery Railway Station were unable to say anything other than the fact of late coming only. Complainants were totally in dark and were confused to do what next for certain time ? The request for refund of ticket charges was also refused without any valid reasons. According to the opposite parties the ticket had to surrender and get the Ticket Deposit Receipt before three hours of leaving the train from the station in the case of late coming trains. Moreover, the train must be late at least for three hours.

2) Complainants seriously allege that the office of the 1st opposite party was not equipped and was unable to provide the required information to the complainants as well as passengers to convey the correct information with regard to the timings of arrival or leaving of trains. As stated earlier in the absence of any other alternative only they had to go to Shornur Railway Station to board any train available at the earliest. The acts of opposite parties such as late running of the train and not keeping the punctuality in the scheduled timings of arrival and leaving inability of giving correct information to the passengers including complainants and also not allowing the refund of the Ticket charges are very serious lapses tantamounting to deficiency in service. Aggrieved by the above acts, a lawyer notice was sent to the opposite party but of no avail. Therefore it is prayed that this Hon'ble Commission may be pleased to allow ticket refund charges as well as Rs.10,000/- each to complainants towards compensation besides court costs.

3) Admitted the case and ordered notice to opposite parties. Version was filed through counsel. Besides categorical denial of certain allegations, opposite parties specifies that complaint is not maintainable either in law or on facts. Opposite parties are not liable to pay any compensation or cost. Complaint is not bonafide but for unjust enrichment. Railways is owned and managed by the Govt. of India and if such claims are entertained, it would drain the national exchequer in no time. Consumer Forum lacks jurisdiction as per Section 13(1) (b) and Section 15 of the Railway Claim Tribunal Act 1987. As per Section S.80 CPC General Manager of Southern Railway is a necessary party. Complaint is bad for non - joinder of necessary party. As per Rule 306 of IRCA Coaching Tariff Part Volume 1 opposite parties are not liable to pay compensation which prescribes as follows.

4) Rule 306 – Reserved, accommodations not guaranteed – Railway Administration do not guarantee reserved accommodation whether seats, berth, compartments coaches or carriages, by any particular train and well admit no claim for compensation for inconveniences, loss or extra expenses due to such accommodation not being provided or attached to times by which asked for. As such these opposite parties are not liable to pay any compensation to the complainants.

5) Complainants cannot be considered as consumers as they had opted to travel by train. Late running of train No.16347 express was due to unavoidable operational reasons. When trains are late by more than three hours, passengers are granted full refund, if they choose to cancel their tickets or they can prefer to travel by the same train for cancellation such passengers need to surrender their original tickets to the booking counter. Complainants are put to strict proof of their claim that they had approached officials and travelled by another train from Shornur. Information is given to the passengers as well as displayed on the

notice board also submitted that no other complaints have been received about Madakkanchery station on that day. The complaint is frivolous and made with ulterior motives. Therefore, the complaint may be dismissed with costs to the opposite parties.

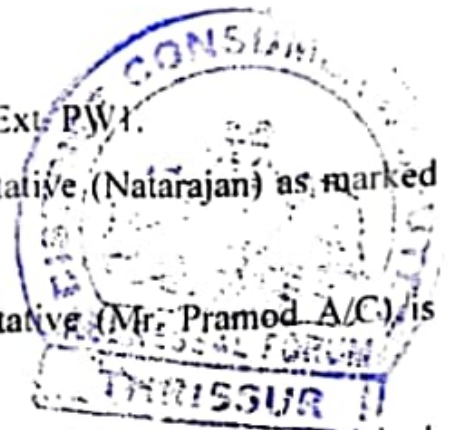
6) Then the case posted for evidence. The following points considered for final disposal.

- a) Is there any deficiency in service on the part of opposite parties ?
- b) If yes, what are the reliefs and costs ?

7) Both parties submitted their proof affidavits, documents, argument notes and heard them in detail. Oral evidence was also tendered. From the complainants' side three documents were filed that are marked as Exts. P1 to P3. Ext. P1 is the copy of the Ticket Booked (480-9648965); Ext. P2 is the lawyer's Notice dtd. 14/06/14; Ext. P3 is the reply notice issued by 2nd opposite party. From the opposite parties side Ten documents are marked as Exts. R1 to R10. Ext. R1 is letter dtd. 16/12/13 by the 2nd opposite party to the 1st complainant and Local BPT Returns; Ext. R2 is the copy of RT Act 1987 Section 13 & 15 & Complaint Book; Ext. R3 is the letter dtd. 17/07/14 by the 2nd opposite party; Ext. R4 is the copy of IRCA (Indian Railway Conference Association Coaching Tariff No.26); Ext. R5 is the copy of Time Table; Ext. R6 is the letter dtd. 11/12/14 by KT Sreenivasan CCC/BO/WKI; Ext. R7 is the letter dtd. 18/12/14 by A.K. Pramod MT III 1281; Ext. R8 is the copy of the letter dtd. 15/12/14 by Station Superintendent; Ext. R9 is the detention position kept by the operating branch and Ext. R10 is the copy of the 55th Railway week award to Shri. K.T. Sreenivan Sr. CC/TCR.

Oral Evidences :

- 1) Deposition of complainants is marked as Ext. PW1.
- 2) Deposition of Opposite parties' representative, (Natarajan) as marked as RW1
- 3) Deposition of opposite parties' representative (Mr. Pramod A/C) is marked as RW2.
- 4) Deposition of opposite parties' representative (Sreenivasan) is marked as RW3.



8) Appreciation of Evidence :

We have examined proof affidavits filed by the complainants and employees of the opposite parties. Apart from this argument notes documents and points raised during final hearing of both parties. Opposite parties have admitted that the tickets in disputes are issued by them. The late running of the train as stated by the complainants is also admitted. The reason for such a late running is explained as "due to some unavoidable and safety measures of the Railways. Because the Railway has to take all the precautionary measures in running the trains and the railways are carrying reliable lives of public and it is the duty and responsibility of maintaining the safety of the running trains". While realizing the great responsibility lies up on them it is the pious duty of the opposite parties to explain the exact reasons for the late running. In the instant case the opposite parties have miserably failed to convince this Hon'ble Commission the exact cause of the late running. What are the unavoidable and safety measures faced and there by undertaken have remained unexplained, creating a vacuum and also alarm and anxiety to this Commission. Today Indian Railways are the Indian Government in miniature. Good in quantity but poor in quality. Every day they weave a nation together. In 2015-16 they sold 806 billion tickets, which translate in to roughly seven journeys per person per year. A nation is on the move, thanks in part to the Railways. The poorest Indian is

mobile because railway tickets are cheaper than almost anywhere in the world this is the good news. Mr. Gurucharan Das while introducing the book on **INDIAN RAILWAYS** – The weaving of a National Tapestry written by Bibek Debroy and two others – a Penguin Random House India Publication in the year 2017 continues to disclose the bad news that the Indian Railways are inefficient hopelessly, ~~over~~ ^{over} manned, utterly politicized sometimes corrupt and provide shoddy callous service. He also sometimes feels that the purpose of Indian Railway is not to serve customers but to tend to the comforts of the 1.3 million employees who have jobs for life. Employees account for the 50% of the Railway costs in India. The above quote is just taken to high-light that there are such remarks also to which this Commission is not prepared to vouch or comment. History need not necessarily be repeated also. However this Commission is neither complaisant enough nor complacent to accept that the opposite party as a service provider discharged its role efficiently.

9) The legislative assembly of the Govt. of India considered the recommendations of the Acworth Committee in 1924. William Acworth was quite a Railway Expert. Most people only quote a particular Section from the Acworth Committee Report. Which says “We do not think that the Indian Railways can be modernized, improved and enlarged so as to give to India the Service which it is in crying need at the moment.....

Gone are those days of such misapprehension and there are improvements but there are further scope for more improvements.

10) In particulars, on verifying the deposition of PW1 there are no contradiction with the pleadings in their plaint. Deposition of RW1 admits that train was late more than 6 hours. Also admits that there is no mention of specific reason of late running in the affidavit. At the same time he points out that the exact reason for the late running is known to the Railway and opposite

parties. If the reason is known to them and its non-disclosure amounts to serious lapse on the part of opposite parties. RW2 ന്റെ മൊഴിയും വിശ്വാസയോഗ്യമായി കാണുവാൻ കഴിയുന്നില്ല. RW3 ന്റെ മൊഴിയും വിശ്വാസയോഗ്യമായി കരുതാൻ കഴിയുന്നില്ല.

11) In the absence of any contra evidence on the part of opposite parties to establish that the late running was due to a genuine reason beyond the control of the Southern Railway officials or their subordinates, this Commission has no other alternative but to fix the blame on the opposite parties alone only. In a more or less similar case G.M. Northern Railways Vs Manoj Kumar, IV (2014) CPJ 559(NC) where ticket was booked by the complainants on internet on 14/02/2013 and cancellation further extended till 15/03/2013. Least expected from the Railway was to intimate the complainants about cancellation of train in order to save him of unnecessary trouble to visit railway station to board train. In this case deficiency was proved and compensation was rightly awarded.

12) As in the above case, the late running of train for more than 6 (six) hours is equal to cancellation in the normal course. Complainants were kept in dark without any information. In the case of such actionable wrongs the complainants have an effective remedy under the Consumer Protection Act. The questions of consumer and lack of jurisdiction and applicability of Rule 306 of ICRA coaching Tariff part I Vol I are devoid of any merits and answered in negative. Having proved the deficiency in service on the part of opposite parties the complainants are entitled to relief and opposite parties are liable to pay the relief considering the hardships and mental agony suffered by the complainants.

Reliefs and costs :

Opposite parties are directed to pay Rs.5,000/- (Rupees Five thousand only) each to the three complainants as compensation. Refund of ticket charges are disallowed since the compensation awarded will take care of that amount as well. The compliance of this order shall be made within 30 days from the receipt of this order. Failing to comply will carry 12% interest on the compensation amount from the date of complaint. Complaint allowed accordingly. No order as to cost.

Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in the open Commission this the 15th day of January 2021.

Sd/-
Sreeja S
Member

Sd/-
Dr. K. Radhakrishnan Nair
Member

Sd/-
C.T. Sabu
President

Appendix

Complainants' Exhibits :

- Ext. P1 copy of the Ticket Booked (480-9648965)
- Ext. P2 lawyer's Notice dtd. 14/06/14
- Ext. P3 reply notice issued by 2nd opposite party

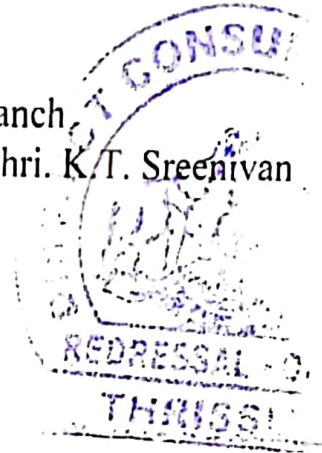
Complainants' Witness :

PW 1 M.M. Babu

Opposite Parties' Exhibits :

- Ext. R1 letter dtd. 16/12/13 by the 2nd opposite party to the 1st complainant and Local BPT Returns
- Ext. R2 copy of RT Act 1987 Section 13 & 15 & Complaint Book
- Ext. R3 letter dtd. 17/07/14 by the 2nd opposite party
- Ext. R4 copy of IRCA (Indian Railway Conference Association Coaching Tariff No.26)
- Ext. R5 copy of Time Table
- Ext. R6 letter dtd. 11/12/14 by KT Sreenivasan CCC/BO/WKI
- Ext. R7 letter dtd. 18/12/14 by A.K. Pramod MT III 1281
- Ext. R8 copy of the letter dtd. 15/12/14 by Station Superintendent

Ext. R9 detention position kept by the operating branch
Ext. R10 copy of the 55th Railway week award to Shri. K.T. Sreenivasan
Sr. CC/TCR.



Opposite Parties' Witness :

RW 1 Natarajan

RW2 Pramod A.K.

RW3 Sreenivasan

Id/-
Member

//True copy//

Senior Superintendent

True certified copy CDRF Thiruvallur

Serial No of the Application _____
Date of receipt of Application _____
Name of the applicant _____
Date of deposit _____ 15/1/21
Date of receipt of true certified copy _____ 29/3/21
Date of deposit of true certified copy for order _____ 29/3/21
By Hand _____
By Post _____

Senior Superintendent
Consumer disputes Redressal Forum
Ayyappale Thiruvallur
0487 230100