

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO. 13288 OF 2021

NORTHERN WESTERN RAILWAY & ANR.

Petitioner(s)

VERSUS

SANJAY SHUKLA

Respondent(s)

O R D E R

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 08.09.2020 passed by the National Consumer Disputes Redressal Commission, New Delhi (hereinafter referred to as the 'National Commission') in Revision Petition bearing No. 2940/2018, by which the learned National Commission has dismissed the said revision petition and has confirmed the order passed by the State Consumer Disputes Redressal Commission, Rajasthan, Jaipur, Bench No.1 (hereinafter referred to as the 'State Commission') dated 3.7.2018 passed in First Appeal No. 1234 of 2017 confirming the order passed by the District Consumer Disputes Redressal Forum, Alwar (hereinafter referred to as the 'District Forum') allowing the complaint filed by the respondent herein and directing the Northern Western Railway and another to pay to the complainant - respondent herein Rs. 15,000/- for taxi expenses, Rs.10,000/- towards booking expenses along with Rs. 5,000/- each towards mental agony and litigation expenses, the original respondents - Northern Western Railway and another have preferred the present special leave petition.

2. That the respondent herein booked four tickets for his family including himself from the Northern Western Railway in Ajmer Jammu Express Train No. 12413 for the journey from Kishangarh to Jammu Tawi on 10.06.2016. He also further booked return reserved tickets from the same train for 17.06.2016. The said train after starting from Ajmer had to reach Jammu Tawi at 8:10 a.m. in the morning on 11.06.2016. As per the case of the respondent, he had to take flight at 12:00 noon from Jammu to Srinagar in SpiceJet, which was to be landed at Srinagar at 12:15 p.m. But the said train did not reach in time and it was delayed by four hours and reached Jammu at 12:00 noon. Since the Jammu Airport was at a far distance from Jammu Railway Station and they had to reach the airport at least two hours prior to the departure of the flight, they could not reach in time and missed the flight. That thereafter the respondent booked private taxi and reached Srinagar. Therefore, the respondent herein - original complainant filed a complaint before the District Forum against the petitioners herein being Complaint Case No. 993 of 2016 and claimed loss of Rs. 9,000/- as air fare, Rs. 15,000/- towards taxi hire charges for going from Jammu to Srinagar, Rs. 10,000/- on account of booking of boat in Dal Lake. The aforesaid claim petition was opposed by the petitioners herein.

3. That the learned District Forum by order dated 14.09.2017 allowed the complaint by observing that there was a deficiency in service and because of that the complainant - respondent herein suffered. The District Forum directed the petitioners to pay to the complainant Rs. 25,000/- as compensation, Rs. 5,000/- each

towards mental agony and litigation charges within one month from the date of the order, failing which the complainant would be entitled to 9% simple interest. The order passed by the District Forum came to be confirmed by the State Commission in an appeal and thereafter by the National Commission by the impugned judgment and order passed in the revision petition.

4. Ms. Aishwarya Bhati, learned Additional Solicitor General has vehemently submitted that late running of train cannot be said to be deficiency in service on the part of the railways. It is submitted that in view of Rule 114 and Rule 115 of the Indian Railway Conference Association Coaching Tariff No. 26 Part-I (Volume-I), there shall not be any liability of the railways to pay compensation for late running of train. It is submitted that there may be number of reasons for delay and late running of train.

5. Having heard Ms. Aishwarya Bhati, learned ASG and having gone through and considered the orders passed by the District Forum confirmed by the State Commission and the National Commission, we are of the opinion that in the facts and circumstances of the case, the impugned orders awarding compensation to the complainant do not warrant any interference by this Court.

6. It is not in dispute that there was a delay in the arrival of the Ajmer Jammu Express Train by four hours. As per the scheduled time, the train was to reach at Jammu Tawi at 8:10 a.m. in the morning on 11.06.2016. However, it reached Jammu Tawi at 12:00 noon. Considering the time schedule fixed by the railways that the train will reach Jammu Tawi at 8:10 a.m. in the morning, the complainant booked the connecting flight from Jammu to Srinagar,

which was to take off at 12:00 noon. Because the train reached Jammu Tawi by delay of four hours at 12:00 noon instead of its scheduled time of arrival at 8:10 a.m., the complainant missed the flight from Jammu to Srinagar. The complainant was required to travel to Srinagar by taxi. The complainant also suffered loss of Rs. 9,000/- as air fare. The complainant was required to pay Rs.15,000/- towards taxi hire charges and also loss of Rs. 10,000/- on account of booking of boat in Dal Lake. No evidence at all was led by the railways explaining the delay and/or late arrival of train at Jammu. The railways were required to lead the evidence and explain the late arrival of train to establish and prove that delay occurred because of the reasons beyond their control. At least the railways were required to explain the delay which the railways failed. It cannot be disputed that every passenger's time is precious and they might have booked the tickets for further journey, like in the present case from Jammu to Srinagar and thereafter further journey. Therefore, unless and until the evidence is laid explaining the delay and it is established and proved that delay occurred which was beyond their control and/or even there was some justification for delay, the railway is liable to pay the compensation for delay and late arrival of trains. Therefore, in the facts and circumstances of the case and in the absence of any evidence led to explain the delay, the District Forum, the State Commission and the National Commission have rightly observed and held that there was deficiency in service and therefore the railway is liable to pay the compensation to the passenger - complainant for the loss suffered and for the agony

suffered. These are the days of competition and accountability. If the public transportation has to survive and compete with private players, they have to improve the system and their working culture. Citizen/passenger cannot be at the the mercy of the authorities/administration. Somebody has to accept the responsibility. No interference of this Court is called for, in exercise of powers under Article 136 of the Constitution of India.

7. The special leave petition is, accordingly, dismissed.

..... J.
(M.R. SHAH)

..... J.
(ANIRUDDHA BOSE)

New Delhi;
September 06, 2021.

ITEM NO.13 Court 13 (Video Conferencing) SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 13288/2021

(Arising out of impugned final judgment and order dated 08-09-2020 in RP No. 2940/2018 passed by the National Consumer Disputes Redressal Commission, New Delhi)

NORTHERN WESTERN RAILWAY & ANR.

Petitioner(s)

VERSUS

SANJAY SHUKLA

Respondent(s)

(FOR ADMISSION and I.R. and IA No.107195/2021-EXEMPTION FROM FILING O.T.)

Date : 06-09-2021 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
 HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Ms. Aishwarya Bhati, ASG
 Mr. Amit Sharma, Adv.
 Mr. Prashant Singh, Adv.
 Noor Rampal, Adv.
 Mr. Amrish Kumar, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The Special Leave Petition is dismissed in terms of the signed order.

Pending applications, if any, stand disposed of.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
BRANCH OFFICER

(Signed order is placed on the file)

ITEM NO.13 Court 13 (Video Conferencing) SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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CORAM : HON'BLE MR. JUSTICE M.R. SHAH
 HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Ms. Aishwarya Bhati, ASG
 Mr. Amit Sharma, Adv.
 Mr. Prashant Singh, Adv.
 Noor Rampal, Adv.
 Mr. Amrish Kumar, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Heard Ms. Aishwarya Bhati, learned ASG appearing for the petitioner(s).

The Special Leave Petition is dismissed.

Reasoned Order to follow.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
BRANCH OFFICER