

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-VI
(NEW DELHI), 'M' BLOCK, 1ST FLOOR, VIKAS BHAWAN,
I.P. ESTATE, NEW DELHI-110002.**

Case No.431/2012

IN THE MATTER OF:

Mr. Devanik Saha

S/o Mr. P.K. Saha

R/o 215-A, Siddharth Extension,
Pocket -C, New Delhi - 110014.

....Complainant

VERSUS

M/s Ethiopian Airlines,

56, 1st Floor, Alps Building,
Janpath, New Delhi-110001.

....Opposite Party

Quorum:

Ms. Poonam Chaudhry, President

Mr. Bariq Ahmad, Member

Mr. Shekhar Chandra, Member

Date of Institution:- 30.04.2012

Date of Order : - 06.09.2023

ORDER**SHEKHAR CHANDRA, MEMBER**

1. The present complainant has been filed under Section 12 of Consumer Protection Act 1986, (in short CP Act) against the Opposite Party (in short OP) alleging deficiency of services.
2. Briefly stated the facts of the case are that the complainant had purchased one air ticket for New Delhi- Durban- New Delhi from the OP Airline for 4th December, 2011 leaving New Delhi at 2:45 a.m.
3. The complainant undertook to travel to Durban as an NGO delegate from India to a UN conference which was to be held at Durban. He was carrying with him "*on arrival Visa support letter*" from UN authorities which exempted him from carrying standard visa while undertaking the said travel. It is alleged by the complainant that he checked in at OP's Counter at Indira Gandhi International Airport, New Delhi well in time alongwith Passport and other required papers; boarding pass was also prepared for him after examining all his papers to be in order but later in a huff and humiliating/ impolite manner, he was told that he could not be

allowed to board the flight for the reason that his "*on arrival visa support letter*" has been declared to be invalid, without disclosing as to who declared it to be invalid and when and by which document.

4. It is alleged by the complainant that the concerned representative of the OP simply told the complainant that he had got a call from Johannesburg Airport Authorities for disallowing the complainant to board the flight and that he could be allowed to board the aircraft only if the complainant has been issued "*OK TO BOARD*" message from Johannesburg Airport Authorities. However, enquiries made at Johannesburg Airport with one Mr. Lionel revealed that the above assertion of representative of the OP namely Mr. Deepak and his colleagues at the Delhi Airport were completely false and fictitious.
5. It is submitted by the complainant that the complainant was allowed to board the aircraft on the next day i.e. 05.12.2011 on the strength of same documents which he had produced on 04.12.2011. It is further alleged by the complainant that he was denied to board the flight the previous day presumably to

accommodate some other passenger with some ulterior motive in spite of the fact that complainant had confirmed booking. In this manner, complainant lost one day in attending the said conference. Thus the complainant submits that the said misconduct and deficiency of service on the part of staff of the OP caused the complainant and his organization loss of conducting workshop at the conference apart from missing the conference on 05.12.2011 causing immense embarrassment to them.

6. It is further submitted by the complainant that on arrival at Durban on 05.12.2011, the baggage of the complainant was not found at the destination and he was told that the same is held up at Addis Ababa. The same was not even delivered to him throughout his stay at Durban with the result that the complainant forced to spend time and money to buy clothing and other essential items leading to great inconvenience to him as he had no choice but to buy some essential items of daily use at Durban. The baggage was handed over to complainant only on his return at Johannesburg on 9th December, 2011. The woes of the complainant did not end there. On his way back, at Johannesburg he was told on 09.12.2011 that his return booking on that day from Johannesburg

to New Delhi has been cancelled without assigning any reason nor any prior intimation was given to the complainant, which also caused great agony and stressful hassle to complainant who was ultimately accommodated against a standby seat after strenuous efforts made by him.

7. Thus the complainant submits that from the facts as narrated, it is crystal clear that OP and its officials are guilty of gross deficiency of service that caused great mental pain and agony to the complainant. The complainant accordingly sent an email to the office of the OP bringing above facts to their notice and requesting them to compensate the complainant for expenses incurred as also for mental pain and agony through which he had to pass throughout his trip. However, there is no response from the OP. The complainant was impelled to have a legal notice dated 10.02.2012 served on the OP through his counsel.
8. As regard cause of action, it is submitted by the complainant that the cause of action firstly arose in favour of complainant against the OP on 04.12.2011 when the OP illegally prevented the complainant to board the plane and thereafter on 05.12.2011

when on arrival at Durban, his luggage was not delivered to him and thereafter on 09.12.2011 when he was harassed at Johannesburg threatening cancellation of his booking to New Delhi also when legal notice dated 10.02.2012 was sent and not complied with. The same is continuing thereafter from day to day. As for territorial jurisdiction of this Commission, it is submitted by the complainant that since the OP is carrying its business at Janpath, New Delhi, this Commission has jurisdiction to entertain the complaint.

9. Failing to get any response from the OP, the complainant has filed the present complaint case against the OP with the following reliefs:-

- a) Direct the OP to pay Rs.13,000/- (\$ 250/-) being the amount incurred for purchase of essential items.
- b) Rs.2,080/- (\$ 40) loss of one day's accommodation charges in hotel
- c) Rs.11,440/- (\$55/- per day for 4 days) for missing luggage claim
- d) Rs.10,400/- (\$ 200) for not being able to conduct a workshop for one day.

e) Rs.15,000/-(\$ 300) being compensation for deficiency of service, harassment, mental pain and agony caused to the complainant.

f) Rs.22,000/- being the legal expenses.

Total = Rs.74,520/-

10. Notice of the complaint was issued to OP, upon which OP entered appearance and filed written statement contesting the case on various grounds inter alia that the complainant has not furnished any proof that the complainant has paid the consideration to the OP for purchase of the said ticket by him; further, it is incorrect and vehemently denied that the representative of the OP at the Airport was impolite and humiliating towards the complainant. The OP has also denied that the complainant was informed that the letter '*on arrival visa*' was invalid. The OP submits that the representative of the OP sought to verify the said letter as a copy of said letter given to the OP was required to be verified.
11. The OP submits that the complainant was carrying an *on-arrival Visa* support Letter, however, the complainant was not having a prior arrangement to this effect and the OP was, as such, required to verify and have a confirmation to this effect from their office in

Johannesburg. Accordingly, and in compliance with the procedure, a request for necessary verification and confirmation was sent, and only after having received a go-ahead, the complainant was permitted to board the flight to Durban. It may be appreciated that for security reasons, and to meet the procedural requirements, the OP is required to follow the rules. The complainant cannot have any objection to this as the complainant had failed to make the prior arrangement. It is submitted that the aforesaid facts were duly informed by OP to the complainant vide their email dated 04.12.2011 wherein it was clearly mentioned that the complainant cannot be permitted to board the aircraft without Visa for South Africa with original UN letter.

12. The OP has denied that the complainant was having the requisite papers. It is further denied that the boarding pass was prepared and issued to the complainant without verification as aforesaid. It is further submitted by the OP that after verification and ascertaining the genuineness of the said letter, the complainant was permitted to board the flight on 05.12.2011. It is incorrect and vehemently denied that the complainant was denied the boarding

on 04.12.2011 to accommodate some other passengers with an ulterior motive as alleged.

13. As regard the delay in delivery of the baggage to the complainant, the OP submits that the delay was not deliberate and was for the reasons beyond the control of the OP. It is further submitted that for the delay in arrival of the baggage, the OP offered the complainant an amount of USD 75 to meet his expenses. However, the complainant refused to accept the same.
14. It is denied by the OP that its officials are guilty of deficiency in service. It is further denied that any pain and agony has been caused to the complainant. It is further denied that the complainant is entitled to any compensation as alleged. Contents of the email making false allegations against the OP are wrong and denied. It is further denied that any mental pain and agony have been caused to the complainant throughout his trip. It is further denied that the OP was negligent towards the complainant as alleged.
15. As regard legal notice having served upon the OP, the contents of the said notice are denied. The OP has denied having received any legal notice.

16. We have heard the arguments and gone through the record of the complaint case. Almost all the allegations made by the complainant have been denied by the OP. The OP has denied even the air ticket having issued by it to the complainant. It is very difficult to believe the arguments of the OP. On the one hand, OP has denied of complainant having purchased an air ticket from the OP but in the same breath it admits that the OP conveyed to the complainant through email the reason for not permitting him to board the flight on 4th December, 2011. Further, the OP does not deny the e-ticket having issued by it, which is part of this complaint record. It further admits that the complainant was permitted by it to fly on the next day i.e. 5th December, 2011. Further the OP states that no inconvenience was caused to the complainant because of any action of the OP but in paragraph 6 of its written statement, it admits that the OP offered an amount of USD 75 to the complainant to meet his expenses for the delay in delivery of his baggage. After hearing the arguments and going through the record, we are satisfied that there is deficiency in service and the OP is liable to compensate the complainant.

17. We, accordingly, direct the OP to pay Rs. 50,000/- to the complainant as compensation for the loss, suffering and agony caused by the OP. The complainant shall also be entitled to Rs. 25,000/- as cost of litigation. The sum as above must be paid within six weeks from the date of receipt of this order, failing which the complainant shall be entitled to interest @ 9% per annum from 04.12.2011 till realization.

A copy of order be sent to all the parties free of cost. The order be also uploaded in the website of the Commission (www.confonet.nic.in).

File be consigned to the record room along with a copy of the order.

[Poonam Chaudhry]
President

[Bariq Ahmad]
Member

[Shekhar Chandra]
Member

