SPC Guiding Case No. 77: Luo Rongrong v. Ji’an Price Bureau (Administrative Price Handling)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Keywords

Administrative litigation / reply to a report / scope of case acceptance / standing of the plaintiff

Holding

1. Where an administrative organ merely makes an informational reply to a report filed by a person who has an interest in the matter reported, without handling the report in accordance with the law, such reply does not fall within the category of “acts that do not actually affect the rights and obligations of citizens, legal persons, or other organizations” under Article 1, item 6 of the Interpretation of the Supreme People’s Court on Several Issues Concerning the Execution of the Administrative Procedure Law of the People’s Republic of China. It is therefore actionable and falls within the scope of case acceptance in administrative litigation before the people’s courts.

2. Where a person files a report with an administrative organ on the ground that his or her own lawful rights and interests have been infringed, the person has a legal interest in the administrative organ’s handling of the report, and therefore has the standing of a plaintiff in administrative litigation.

Basic Facts

The plaintiff, Luo Rongrong, alleged: On May 20, 2012, when he applied for a mobile phone number at the Ji’an Telecom Company’s business hall on Jinggangshan Avenue, Jizhou District, Ji’an City, the company charged him a card fee of RMB 20 and issued an invoice. The plaintiff believed that Ji’an Telecom Company’s collection of a card fee for his first application for a mobile phone number violated the prohibitive provisions of the Measures for the Application of Integrated Circuit Cards and the Administration of Fees, which prohibited charging users separately. He therefore filed a complaint and report with the defendant, the Ji’an Price Bureau, requesting that the defendant perform its statutory duties of investigation and handling and issue a written reply. Although the defendant issued a written reply, the reply only stated that the defendant had discovered a document and part of its contents during its investigation. The reply did not handle the matters requested in the plaintiff’s complaint letter. The defendant’s conduct violated the Price Law of the People’s Republic of China, the Provisions on Reporting Price Violations, and other relevant laws. He requested the court to confirm that the defendant’s conduct in handling his complaint matters was unlawful, to revoke the defendant’s reply in accordance with the law, and to order the defendant to investigate and handle the violations involved in his complaint letter in accordance with the law.

The defendant, the Ji’an Price Bureau, argued that the plaintiff’s lawsuit did not comply with the relevant provisions of the Administrative Procedure Law. Administrative litigation refers to lawsuits brought by citizens, legal persons, or other organizations who are dissatisfied with the specific administrative acts of an administrative organ. In this case, the reply made by the defendant to the plaintiff on July 3, 2012 was not a specific administrative act and was not actionable. The defendant’s reply to the plaintiff complied with the procedural requirements of the Provisions on Price Violations, and the content of the reply was merely to inform the plaintiff of the circumstances verified by the defendant after investigation. It requested the court to dismiss the plaintiff’s claims in accordance with the law.

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The court found upon trial: On May 28, 2012, the plaintiff Luo Rongrong mailed a complaint letter to the defendant, the Ji'an Price Bureau, reporting that Ji'an Telecom Company had collected a card fee of RMB 20 from the plaintiff for his first application for a mobile phone card, and requesting the defendant to order Ji'an Telecom Company to refund the illegally collected mobile phone card fee of RMB 20, to investigate, handle, and confiscate all card fees collected from telecommunication users for their first application for mobile phone cards, to reward the plaintiff in accordance with the law, and to reply in writing to the plaintiff on the relevant handling results. On May 31, 2012, the defendant received the plaintiff's complaint letter. On July 3, 2012, the defendant made the Reply on the Handling of Luo Rongrong's Complaint Letter of May 28, 2012, and served it on the plaintiff by mail. The content of the reply was: "On May 31, 2012, our bureau received your complaint letter reflecting that Ji'an Telecom Company charged new mobile phone card users a card fee of RMB 20. Our bureau attached great importance to it and promptly conducted an investigation. Upon investigation and verification: the Reply on the Optimization Plan for Ji'an Telecom's All-Business Package Tariffs (Gan Tong Ju [2012] No. 14), jointly issued by the Jiangxi Provincial Communications Administration and the Jiangxi Provincial Development and Reform Commission, provides: the upper-limit standard for UIM card fees: RMB 50 per card for network access, and RMB 30 per card for card replacement. Our bureau is very grateful for your support and assistance to the price work." After receiving the defendant's reply, the plaintiff brought a lawsuit on the ground that the defendant's reply was unlawful.

Judgment

On November 1, 2012, the Jizhou District People's Court of Ji'an City, Jiangxi Province rendered the judgment (2012) Ji Xing Chu Zi No. 13: The Reply on the Handling of Luo Rongrong's Complaint Letter of May 28, 2012 made by the Ji'an Price Bureau was revoked, and the bureau was ordered to make a new written reply within fifteen days. After the judgment was pronounced, the parties did not appeal, and the judgment became legally effective.

Reasoning

The effective judgment held, on the issue of the actionability of the Ji'an Price Bureau's reply to the report: According to Article 11, paragraph 1, item 5 of the Administrative Procedure Law of the People's Republic of China (adopted on April 4, 1989), where a party applies to an administrative organ to perform its statutory duty of protecting personal and property rights, and the administrative organ refuses to perform or fails to reply, the people's court shall accept the lawsuit brought by the party. In this case, the Ji'an Price Bureau was required by law to investigate and determine whether the card fee collection by Ji'an Telecom Company reported by Luo Rongrong was unlawful, and to inform him of the investigation results. However, the reply it made merely listed the upper-limit standard for UIM card fees stipulated in the Reply on the Optimization Plan for Ji'an Telecom's All-Business Package Tariffs, without recording the handling result of the reported matter. Such conduct of substituting the content of the Reply for the notification of the investigation result of the report failed to perform in accordance with the law the statutory duty of protecting the reporter's property rights, and was itself an infringement of Luo Rongrong's right to seek relief through the proper reporting channel. It did not fall within the category of "acts that do not actually affect the rights and obligations of citizens, legal persons, or other organizations" under Article 1, item 6 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Execution of the Administrative Procedure Law, and was therefore actionable, falling within the scope of case acceptance in administrative litigation before the people's courts.

On the issue of Luo Rongrong's standing as plaintiff: According to Articles 2 and 24, paragraph 1 of the Administrative Procedure Law and Article 12 of the Interpretation of the Administrative Procedure Law, a person who brings an administrative lawsuit against the handling of a report must have a legal interest in that act. In this case, although Luo Rongrong requested the Ji'an Price Bureau to "investigate, handle, and confiscate all card fees collected from telecommunication users for their first application for mobile phone cards," he still filed the report with the Ji'an Price Bureau on the basis that he believed that Ji'an Telecom

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Company's collection of the card fee infringed his own lawful rights and interests, and he held the invoice for the fee as evidence. Therefore, Luo Rongrong had a legal interest in the handling of the report and had the standing of a plaintiff in administrative litigation, and could bring an administrative lawsuit in accordance with the law.

On the issue of the legality of the reply to the report: Article 14 of the Provisions on Reporting Price Violations provides: "After the handling of a report is completed, if the reporter requests a reply and has contact information, the competent price authority shall, within five working days after completion of the handling, inform the reporter of the handling result in writing or orally." In this case, the Ji'an Price Bureau, as the competent price authority, had the statutory duty of accepting reports of price violations, examining whether prices were unlawful, and proposing classified handling opinions. Luo Rongrong clearly listed three reporting requests in his complaint letter and requested the Ji'an Price Bureau to notify him in writing of the handling result after the investigation was completed. The reply did not record in accordance with the law the handling result of the Ji'an Price Bureau regarding the reported matter, violating the provisions of Article 14 of the Provisions on Reporting Price Violations, and was therefore unlawful and should be corrected.

Relevant Legal Provisions

Articles 12 and 25 of the Administrative Procedure Law of the People's Republic of China (amended on November 1, 2014).

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