(2014) 04 NCDRC CK 0076

In the National Consumer Disputes Redressal Commission

Appala Venkata Naga Durga Srinivas APPELLANT

Vs

Manager, Payment Assistance Unit, Sbi Cards And Payment Service Private Ltd. RESPONDENT

Date of Decision : 01-04-2014

Acts Referred:

Citation : 2014 0 NCDRC 185

Hon'ble Judges : J.M.MALIK , S.M.Kantikar J.

Advocate : D.BHARAT KUMAR , SUMAN TRIPATHY , PAWAN KUMAR

Judgement

1. THE present Revision Petition has been filed under Section 21 (b) of the Consumer Protection Act, 1986 against the impugned order dated 01.07.2013 in FA/622/2012 passed by the State Consumer Disputes Redressal Commission (in short, ''State Commission ''), Hyderabad which dismissed the Appeal filed by the Petitioner. The Appeal was preferred by the Petitioner as against the orders dated 08.05.2012 in Consumer Complaint No. CC/82/2010 before the District Consumer Disputes Redressal Forum (in short, ''District Forum '')

2. BRIEF facts: The complaint Appala Venkata Naga Durga Srinivas, the Complainant got a SBI Credit Card, from the OP which he noticed his name was wrongly mentioned as """VND Sappala """ instead of """Appala Venkata Naga Durga Srinivas """. As per advice of the OP Bank authorities, on 07.01.2007he returned the credit card with a request to block it to avoid misuse. The OPs informed him that the said credit card was blocked on 14.02.2007. Surprisingly, the agent of the OP approached the Complainant and demanded to pay Rs.390/ - as settlement amount and the Complainant paid the same on 18.07.2007 vide receipt no. 6985091. On 17.06.2010 he received a demand notice for amount with statement The said act of OPs amounts to deficiency in service, the complainant filed a complaint CC/82/2010 before the District Consumer Disputes Redressal Forum, (in short, ''District Forum '') seeking refund from OPs for Rs.390/ - along with Rs.25,000/ - towards mental agony and Rs.5,000/ - as costs . The District Forum dismissed the complaint; subsequently the first appeal

filed by the complainant was also dismissed.

3. AGGRIEVED by the order of State Commission, the complainant preferred this revision petition.

4. WE have heard the counsels of both the parties. Perused the documents, bank statements. It is true that that the name of the Complainant is '''' Appala Naga Venkata Durga Srinivas '''' and in the abbreviation it designs as ''''VNDS Appala '''', but the OP issued card as ''''VND Sappala '''' ; all the words are same except the alignment of letter ''S '' by the side of letter ''A '' without any space. The complainant did not deny that his surname is ''Appala ''. In our considered view, the complainant should not be allowed to take undue benefit of such inadvertent small mistake. Normally, the transaction takes place with card number of the Complainant and the description of the name does not come in the way of operating the card. At this stage the Complainant filed an additional document, the Temporary receipt No. 6985091 for Rs.390/ - collected by the agent of OP. This receipt do not specify the purpose of collection of Rs.390/ -. Even, the Complainant has not produced any cogent evidence or a copy of letter by which he made a request to the OPs for cancellation of the card. He has not produced postal A.D. The agent was not examined before the District Forum.

5. FURTHER , the counsel for OP -1 brought our attention to the clause (6), sub -clause (a) of the terms and conditions state as follows: ''''The card holder may end the agreement at any point of time by writing to SBICPSL or calling into the SBI card help line, and by cutting the card (s) diagonally. All the cards including the add -on -cards will be terminated basis the written request. Termination will be effective after payment of all amounts outstanding on the card account. No annual, joining or renewal fee shall be refunded on a prorate basis. '''' As per the said clause (a) of the terms and conditions, complainant did not cut card diagonally, to avoid any transactions, still the card was in his possession might be used for transactions. On 17.6.2010, the OP sent a letter for payment of dues to the complainant along with SBI card statement clearly show total outstanding of Rs.28,799.04. It appears that the Complainant want to shirk away from the overdue payment, by carving such frivolous complaint. The arguments advanced on behalf of Complainant/Petitioner are devoid of any merit; hence we dismiss this revision petition and as per Section 26 of the Consumer Protection Act 1986, impose cost of Rs.2500/ - which is to be deposited in the Consumer Legal Aid Fund within 30 days, from the date of receipt of this order, otherwise it will carry 9% interest, till it ''s realization.

