(1995) 08 NCDRC CK 0042

In the National Consumer Disputes Redressal Commission

BANGALORE WATER SUPPLY And SEWERAGE BOARD EMPLOYEES ASSOCIATION	APPELLANT
Vs	
Manager, Syndicate Bank	RESPONDENT

Date of Decision : 01-08-1995

Acts Referred:

Citation : 1995 2 CPC 564 : 1995 3 CPJ 412 : 1995 3 CPR 108

Hon'ble Judges : D.R.Vithal Rao , Susheela Cheluvaraju J.

Final Decision : Complaint allowed with csts

Judgement

1. IN this complaint, under Section 17 r/w Section 12 of the Consumer Protection Act, 1986, the complainant has sought a compensation in a sum of Rs. 2 lakhs by way of deposit of the said sum to the S.B. Account No. 7450 with interest thereon. The complainant is an Employees'' Association, a registered body representing by its President and the General Secretary. The opposite party is the Syndicate Bank.

2. THE complainant an Association'' held an S.B. Account No.7450 with the opposite party Bank, Branch: Cauvery Bhavan, since several years. It was being operated jointly by its President and the Treasurer. It is the further case of the complainant that during the year 1989 disputes arose on account of the rival claims; a civil suit touching the matters pertaining to the office-bearers of the complainant-Association was also filed. A writ petition was also filed before the Hon''ble High Court of Karnataka, by its order dated 29.6.1992 in W.A. Nos. 879, 880 and 917/ 92, a Labour Commissioner was appointed as the Returning Officer to hold elections for electing the office-bearers of the Association. The High Court directed the opposite party-Bank to deposit a sum of Rs. 40,000/- from out of the S.B. Account of the Association to the Labour Commissioner for meeting the expenses for holding the elections.

The complainant further averred that in the meanwhile, the opposite party-Bank had stopped the operation of the said account due to rival claims and ceased the account. But the opposite party wrongfully permitted withdrawal of a sum of Rs.

2 lakhs under 13 cheques from 21.9.92 to 27.10.92, ignoring its own order of freezing account and stopping the operation of the said account.

3. THE complainant, when they came to know that the opposite party had disbursed a sum of Rs. 2 lakhs from the said S.B. Account which was frozen, made a claim to deposit the said amount to the said S.B. Account and when the opposite party declined to do so, filed the complaint seeking a direction to the opposite party to deposit the said amount of Rs. 2 lakhs so disbursed by it with interest thereon to the S.B. Account of the Association. The opposite party filed its version, admitted the fact that the complainant-Association had the S.B. Account No. 7450 with it. It also admitted the fact that from 21.9.92 to 27.10.92, 13 cheques to the tune of Rs. 1 lakh, were honored from the said S.B. Account.

4. THE opposite party further averred that the representatives of the Association who have filed this complaint, Mr. Chowde Gowda and Ramanna did not produce any order from the Civil Court restraining them from disbursing the amount, so they made the payment of the said amount under those 13 cheques to the persons who were earlier operating the said account. The opposite party nextly averred that in disbursing the said amount under those 13 cheques they have not committed any deficiency in service. The opposite party, on the basis of these averments, sought the complaint to be dismissed. During enquiry, the complainant-Mr. Chowde Gowda, President of the Association, filed the affidavit and got Exs. C-l to C-18 marked in evidence. The opposite party examined its Branch Manager, as RW-1 and the Senior Law Officer in the Zonal Office as RW-2 and got Exs. R-l to R-6 marked in evidence.

5. WE heard the learned Counsel for the parties, perused the pleadings and the material placed on record.

6. IT is not disputed that the complainant-Association had S.B. Account No. 7450 with the O.P. since several years. IT is also not disputed that since the month of March 1989, disputes arose. There were rival claims and some civil proceedings were pending. RW-1 - Branch Manager who had permitted the operation of the account in the year 1992, has stated, thus: "I was aware of the fact that civil disputes were pending in respect of this account. I was also aware of the fact that this account was not operated for about a period of two years. I know the fact that this account was not operated because some disputes were pending before the Civil Court. I am also aware of the fact that the Bank had suspended the operation of the account until specific orders are received from the Court. I have not seen the Ledger extracts. I know the account was frozen by the Bank. The operation of the account was permitted by the as per the instructions of the Zonal Office."

Rw-2 is the Law Officer of the Bank. She has in this regard, stated thus: "I was aware of the fact that the Bank had stopped the operation of the account. I was also aware of the fact that the Bank had frozen the operation of the said account.

I do not know for how many years the operation of the said account was frozen. Normally the Bank stops the operation of the account whenever there are rival claims. The effect of freezing the account is not to permit any one to operate the account. On looking into the orders of the High Court I came to know that the High Court had ordered the election of the office bearers of the Association to be completed by the end of Sept., 1992. It is true that there was no specific order of the Civil Court or the High Court permitting the operation of the account."

The evidence of this witness would clearly go to show that even though there was no specific orders by any Court, the opposite party-Bank permitted a particular individual to operate the account. Ex. C-15, dated 5.9.1989, Ex.C-16, dated 22.2.1991 and Ex. C-17, dated 2.9.1991, written by the opposite party-Bank to the President and the Secretary of the Association, would clearly go to show that the Bank itself had informed the Association that they would not permit the operation of the account from anyone without production of a specific order of the Civil Court. Even then the opposite party-Bank through its representatives - RW-1 and RW-2, permitted the operation of the account and disbursed a sum of Rs. 2 lakhs from the said S.B. Account within a period of 36 days, that is, from 21.9.1992 to 27.10.1992.

7. THESE facts and circumstances would dearly go to show a gross-negligence on the part of the opposite party. Having regard to these facts, it is clear that the services rendered by the opposite party are clearly deficient in nature. The facts narrated above would clearly go to show the negligent act on the part of RW-1 and RW-2 in permitting to withdraw the amount from the said S.B. Account. It is left to the opposite party-Bank to hold an enquiry into this aspect, that is, negligence in service, on the part of the opposite party - particularly of RW-1 and RW-2 of the opposite party-Bank and fixup responsibility. ORDER In the result, therefore, this complaint is allowed. The opposite party is directed to deposit a sum of Rs. 2 lakhs with interest thereon at 18% p.a. from 27.10.1992 till the date of its deposit to the S.B. account No. 7450 of the complainant-Association. The opposite party shall also deposit a sum of Rs. 2,500/- (Rupees two thousand and five hundred) to the said S.B. Account No. 7450 towards the costs of this preceding, The opposite party-Bank shall deposit the said sums so awarded to the S.B. Account No. 7450 of the complainant-Association within a period of 30 days from this day. The opposite party-Bank is at liberty to hold an enquiry into this aspect, that is, negligence in service, on the part of R.W-1 and R.W-2 of the O.P. Bank and fixup liability on them and recover the sums so awarded from them and remit the same to the account of the Bank. Complaint allowed with costs.

