(2004) 08 NCDRC CK 0051

In the National Consumer Disputes Redressal Commission

BANK OF BARODA APPELLANT

Vs

RAM SWAROOP AHUJA RESPONDENT

Date of Decision : 31-08-2004

Acts Referred:

Citation : 2005 1 CPJ 397

Hon'ble Judges : Palok Basu , R.N.Prasad J.

Final Decision : Appeal partly allowed

Judgement

1. THE appeal was fixed for orders today on the application of Sri Ram Swarup Ahuja who is present in person.

2. ON 17.11.2003 date 4.5.2004 was fixed, whereafter the matter has come up today. There was fixed deposit by the father of the complainant Ram Swarup Ahuja which matured but the complainant made late claim due to the papers having been lost at the first instance. Thereafter on discovery of those papers claim was registered upon which the Bank had made payment. According to the complainant he should have been paid more amount than received by him. The Bank did not care. Aggrieved, the complainant went to the District Forum with Complaint Case No. 453 of 1999.

The District Forum, Kanpur Nagar has directed that Rs. 7,467/- plus 12% interest w.e.f. 1.8.198 should be paid to the complainant.

3. THE Bank of Baroda being aggrieved by the said order of the District Forum has filed the instant appeal. The grounds taken by Mr. Uma Shankar Gupta, learned Counsel for appellant have been examined in detail. Reference to the order of the Banking Lokpal (ombudsman) dated 31.7.1998 exists in para 3 of the stay application moved by the appellant. It has further been stated that the appellant undertakes to pay total sum due to the respondent if the appeal is decided against it.

4. THE appellant itself has accepted the fact that the complainant had approached the Banking Ombudsman who has decreed in his favour the

aforesaid amount of Rs. 7,467/-. THE aforesaid observation of the Banking Lokpal (ombudsman) has not been challenged in the appeal. THE grievance of the Bank is only that no interest is payable on the aforesaid amount. Mr. Ahuja has stated that since the retention of the amount of Rs. 7,467/- was due to the fault of Bank he is entitled for the payment of interest. It may be stated that the case of Mr. Ahuja for interest is not tenable because calculation mistake was found by Ombudsman who thus ordered the said amount of Rs. 7,467/- only to be paid to the complainant. In this view of the matter no further amount towards interest is payable. In this connection a letter of Mr. Ahuja himself dated 12.8.1998 which he himself has filed along with the application is available on record. It has been stated by Mr. Ahuja that - "..I hereby agree to your recommendation of payment of Rs. 7,467/- by bank to me. I am ready to complete all the other formalities as may be required in this connection."

The matter, therefore, is concluded with the finding that the appellant has to succeed to the extent that no interest is payable on Rs. 7,467/- but it has to pay the said amount of Rs. 7,467/- within two months provided that the complainant files copy of order within one month and also completes formalities in the next one month. Rs. 2,000/- shall be payable by the Bank to the complainant towards cost. The appeal partly succeeds and is disposed of with the aforesaid directions. Appeal partly allowed.