(2018) 03 NCDRC CK 0097

In the National Consumer Disputes Redressal Commission

Case No : Revision Petition No. 73, 74, 75, 76, 77 Of 2018

Bank Of Baroda APPELLANT

Vs

Vinod Mohanlal Patel & Anr RESPONDENT

Date of Decision : 12-03-2018

Acts Referred:

Consumer Protection Act, 1986 — Section 21(b)

Citation : (2018) 03 NCDRC CK 0097

Hon'ble Judges : D.K. Jain, J;M. Shreesha, J

Bench : Division Bench

Advocate : Rajesh Kumar, V. Govinda Ramanan

Final Decision : Dismissed

Judgement

1. This set of five Revision Petitions, under Section 21(b) of the Consumer Protection Act, 1986 (for short â??the Actâ?), by Bank of Baroda, the

sole Opposite Party in the Complaints under the Act, is directed against a common order dated 22.01.2015, passed by the Maharashtra State

Consumer Disputes Redressal Commission at Mumbai (for short â??the State Commissionâ?) in Miscellaneous Applications No. MA/14/55 â?" 59 in

First Appeals No. FA/14/145 â?" 149. By the impugned order, the State Commission has dismissed the Appeals, preferred by the Petitioner herein, as

barred by limitation.

2. The Appeals had been filed by the Petitioner Bank against a common order, dated 16.07.2013, passed by the District Consumer Disputes Redressal

Forum, Mumbai Suburban (for short â??the District Forumâ?) in Complaint Cases No. 575, 638, 639, 640 and 641 of 2010. By the said order, while

partly accepting the Complaints, preferred by the Complainants, the Respondents herein, alleging deficiency in service on the part of the Petitioner

Bank in paying quarterly interest/pension at lesser rates to them, the District Forum had directed the Petitioner to pay to the Complainants interest @

13% on the fixed deposits made by them under â??Akshay Pension Deposit Schemeâ? since 30.06.2008 and consequently pay the differential

amounts to them.

3. Since all the Complaints involve a common issue and similar facts, and the Fora below have also disposed of the Complaints/Appeals by their

respective common orders, these Revision Petitions are also being disposed of by this common order. However, for the sake of convenience, Revision

Petition No.73 of 2018 is treated as the lead case and the facts enumerated hereinafter are taken from the said Revision Petition.

4. The Complainants had made two term deposits of 97,846/- and 65,327/- with the Petitioner Bank under the aforesaid Scheme. Under the said

Scheme, on deposit of certain fixed amount every month for a certain period, the Petitioner was to pay a Depositor a fixed amount as â??Pensionâ?,

equal to quarterly interest, to be calculated at 13% p.a., till the amount deposited was withdrawn by the Depositor. On deposit of the aforesaid

amounts, the Petitioner had issued Term Deposit Receipts in the name of the Complainants, showing the afore-stated interest rate. Vide its letter

dated 23.12.1997, the Petitioner had also informed the Complainants that the said interest was payable until the amount was withdrawn by them. In

January, 2007, the Complainants noticed that they had been receiving lesser pension/interest on the said deposits. They approached the Petitioner for

rectification of the mistake but all their efforts in this behalf went in vain. In the said background, the Complainants filed their Complaints before the

District Forum at Thane, which, vide its order dated 30.06.2009, allowed the Complaint(s). Being aggrieved, the Petitioner filed its Appeals before the

State Commission, which, vide its order dated 07.06.2010, allowed the Appeals and remanded back the cases to the District Forum, Mumbai Suburban

for fresh adjudication.

5. On appraisal of the evidence adduced by the parties, the District Forum, vide its order dated 16.07.2013, partly allowed the Complaints, with the

afore-stated directions to the Petitioner.

6. Still aggrieved, the Petitioner again carried the matter further in its Appeals to the State Commission, albeit with a delay of 130 days. The State

Commission, vide the order, impugned in the present Revision Petitions, has reached the conclusion that the explanation furnished for the afore-stated

delay did not make out a sufficient cause for its condonation and, hence, dismissed the Appeals as barred by limitation.

7. Hence, the present Revision Petitions.

8. It is pointed out by the Office that these Revision Petitions are also barred by limitation, inasmuch as there is an inordinate delay of 993 days, almost

seven times more than the delay in filing Appeals by the Petitioner before the State Commission, in filing the Revision Petitions. Identical Applications,

seeking condonation of the delay, have been filed along with the Revision Petitions. In paragraphs 1, 3, 4, 5 and 6 thereof, the Petitioner has furnished

the following verbatim explanation:

â??1. That the accompanying revision petition is being filed assailing the order dated 22.01.2015, certified copy thereof was received on 17.03.2015,

whereby the Honâ??ble State Commission was pleased to dismiss the application of the Petitioner seeking condonation of delay in preferring the

appeal, consequently appeal was also dismissed in limine.

2. â?¦

3. That the delay in preferring the instant Revision Petition has been caused due to host of the reasons, none of which could be attributable to any

deliberate delay on the intention of the Petitioner. It is stated that the impugned order was received by the Petitioner in mid-March and the concerned

branch wrote to the Regional office seeking instructions on the future course of action to be taken in the present case vide letter dated on 07/04/2015

intimating it of the impugned order.

4. That it may not be out of place to state that every branch is under the administrative control of a Region, who overall supervise and regulates its

affairs. That the Mumbai being a mega polis had initially three regions to regulate the branches, however, it was decided that considering the growth

of the city and its customer base, it would be prudent to carve out an another region. As a result of which a new region was carved out on 15.05.2014.

That the Santacruz (East) Branch was initially under MMNR region, after the hive off it came under new region which was carved out on 15.05.2014.

That needless to say that the churning of this nature, in the organization of the size of the Petitioner, brings along humongous administrative challenges to streamline the function. That the matter was not helped by the fact the law officer serving in the newly carved Region was on notice period and

was relieved on Mid-March, which being, the busiest time in the Banking calendar. As consequence of which there was no law officer posted with

the new carved out region thus, temporary arrangement were made and the law officer attached to the Zone was given the additional work of the

new carved out Zone. That the same caused a jargon in the efficient working of the petitioner.

5. That considering that much time elapsed, the Regional Office decided against filing the Revision Petition. That the Petitioner, initially did not

appreciate the far-reaching implication of the impugned order, it was under the impression that by paying the differential payment of Rs 6,528, the

controversy could be given a quietus. It was, however, later on realized by the Petitioner that it was obliged to pay an interest rate of 13% for whole

his life to the respondents herein. That the petitioner realized subsequently of the far reaching consequences of the impugned order of the District

Forum dated 16.07.2013, as a result of which the Corporate office decided to file the present Revision Petition.

6. That it is pertinent to state that the Indian economy is entering a low interest rate regime and the chasm between the 13% the actual rate of interest

applicable to other FD would continue to grow wider as a result of the same. This would not only entail extra financial burden on the Petitioner, who is

a custodian of public money but would also be grossly unjust and discriminatory against similarly situated customers. Moreover, the Petitioner further

submits that, it has already implemented the Impugned judgment/order of the Honâ??ble District Forum dated 16.07.2013 but considering the

question of law involved, the corporate office of the Petitioner decided to prefer the present revision petition so that the question of law could be

conclusively answered.â??

9. At the outset, we are constrained to observe that the explanation furnished by the Petitioner Bank is not only far from satisfactory, it also depicts

the casualness with which the high powered legal department of the Petitioner Bank deals with Court cases.

10. Admittedly, certified copy of the impugned order, dated 22.01.2015, was received by the Petitioner on 17.03.2015. As per Regulation-14 of the

Consumer Protection Regulations, 2005, the Petitioner was required to file the Revision Petitions within a period of 90 days from the said date.

However, the same have been filed only on 09.01.2018, with the afore-stated inordinate delay, over and above the period provided under the said

Regulation. The averments made in paragraph-4 of the Application â?" creation of a new region on 15.05.2014; the Petitioner Bankâ??s Branch at

Santacruz East (which was earlier under MMNR Region) coming under the control of the new region from the said date; vacancy on the post of law

officer in the new region; and hence resulting in the delay in filing the Revision Petitions, bely conviction on the short ground that even in the first

instance the Petitioner Bank had suffered an adverse order from the State Commission in its Appeals, as the same had also been dismissed as barred

by limitation. As regards the explanation, highlighted above, pertinently these developments had taken place prior to the receipt of certified copy of the

impugned order, on 17.03.2015. On receipt thereof, the concerned Branch took three weeks in seeking instructions from its Regional Office about the

future course of action.

So far as the averment relating to assignment of the case to another law officer is concerned, it is hard to believe that the said law officer was not

aware of the period of limitation, under which the Revision Petitions were to be filed. Furthermore and significantly, having initially decided to accept

the orders passed by both the Fora below, the Corporate Office took considerable time in taking a fresh look at the issue and deciding to file the

Revision Petitions. It is equally pertinent to note that the Application is conspicuously silent about the dates when the case-files moved from one office

to another; when the Corporate Office decided to file the Revision Petitions; when the Counsel was engaged; how much time was taken by the

Counsel in filing the Revision Petitions, etc.

Additionally, as already stated above, even before the State Commission, the Petitioner was non-suited on the ground of delay, inasmuch as it had filed

the Appeals with a delay of 130 days, for which, according to the State Commission, no sufficient cause had been made out, warranting condonation

of the delay. Still, the Petitioner, a Public Sector body Corporate, did not learn any lesson and continued to deal with the matter in its usual archaic

manner. If in the opinion of the Petitioner Bank, as is sought to be pleaded in the afore-extracted explanation, the stakes involved in the matter were

really high, warranting a conclusive answer on the question of law involved in the cases, it ought to have shown some sort of seriousness in

challenging the impugned order, whereby its Appeals were dismissed only on the ground of limitation, but that was not to be.

11. In view of the above, we have no hesitation in holding that the Petitioner Bank has failed to make out any cause, much less a â??sufficient

causeâ? for condonation of inordinate delay of 993 days in filing the Revision Petitions. We are convinced that condonation of the said inordinate delay

would not only be in the teeth of very object of the Act, it would only be travesty of justice in denying even the contracted rate of interest to small

depositors.

12. Resultantly, we are not inclined to condone the afore-stated period of inordinate delay in filing the Revision Petitions and would dismiss the

Revision Petitions in limine as miserably barred by limitation. Ordered accordingly.