(2000) 07 NCDRC CK 0003

In the National Consumer Disputes Redressal Commission

BANK OF INDIA APPELLANT

Vs

MAHILA DAIRY VIKAS PARIYOJANA RESPONDENT

Date of Decision : 31-07-2000

Acts Referred:

Citation : 2001 1 CPC 590 : 2001 1 CPJ 402

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against the judgment and order dated 9.2.2000 passed by District Forum, Almorha in Complaint Case No. 44/99.

2. THE facts of the case stated in brief are that the complainant filed this complaint for recovery of Rs. 4,68,015/- and for a sum of Rs. 25,000/- as compensation. It is alleged by the complainant that the complainant is a sister concern of State Milk Development Department and is doing work in all the Districts of Uttaranchal. THEir main office is in Almorah. It keeps account in one of the nationalised bank for the amount which is given to it as grant etc. THE cheques and drafts are also issued by different agencies. THE complainant contacted opposite party, Bank of India, Almorah Branch for opening an account and to give all the facilities which are available. On this assurance a savings bank account was opened and a letter incorporating the terms was given to the complainant. This account was opened on 15.4.1994, the number of which was 4808. THE facilities which were available were that the drafts shall be prepared without any charges and the interest which is granted on savings bank account shall also be given. Complainant used to deposit amounts in the Bank and the interest was given to it. On 24.7.1997 a sum of Rs. 4,43,701/- was deducted from the savings bank account of the complainant without any prior information to the complainant. When the complaint was made to the opposite party, it was stated that during the audit, this fact has come to the notice on account of which this much amount has been debited. On checking the account, it was found that the amount which was given as commission on preparation of the bank drafts

was withdrawn and the amount chargeable on that account was deducted from the account of the savings bank account. The complainant made a complaint to the Bank and thereafter issued notices dated 1.2.1999 and 15.4.1999 but with no effect. Thus in this way a sum of Rs. 4,43,701/- has been deducted from the account of the complainant which is against the norms of the contract.

The opposite party in its written version has admitted opening of the account and alleged that it is a nationalised bank and it grants facilities to its customers in accordance with the banking norms. It has been admitted that the Bank has been issuing drafts free of cost and has been giving interest on the savings bank account. The receipt of the notice and its reply has been alleged. It is further alleged that on 26.6.1994 a draft of Rs. 2,00,000/- as prepared but no charges were made. On the same day another draft of Rs. 4,00,000/- was issued on which the State Bank of India was paid a commission of Rs. 1,240/-. In the same way a draft of Rs. 2,52,685/- was issued on 22.7.1994 on which no commission was charged, but the State Bank of India charged a sum of Rs. 752/- as commission on that draft. The entries were made in the pass book on 28.10.1994 also and this shows that the complainant had acquised in the said commission. The Bank was not told that the complainant is getting grant from UNICEF. This fact came out during the audit and according to the circular of Reserve Bank of India, such customers cannot be allowed to open a savings bank account and no commission is given to them in the matter of drafts. After consulting Accounts Manager, the complainant was intimated about this fact on 3.11.1997 that the interest is not payable to them and they should open a current account.

3. THE learned District Forum, after considering the case of the parties, came to the conclusion that there was deficiency of service on the part of the Bank and hence it directed the Bank to deposit a sum of Rs. 4,49,701/- in the account of the complainant and to pay 5% interest on this account from 3.11.1997 till 29.2.2000. Aggrieved against the order of the learned District Forum, Bank of India has come in appeal and has challenged the correctness of the order passed by the District Forum.

4. WE have heard the learned Counsel for the appellant at the admission stage without issuing notice to the opposite party. According to learned Counsel, the complainant could not have opened a savings bank account and no interest was payable to it. Learned Counsel has further argued that the commission amount on preparation of draft could not have been given in view of the circular of Reserve Bank of India. It is an admitted fact that the Bank opened a savings bank account in the name of the complainant and allowed interest which is available on this savings bank account. It also granted facility to the complainant to issue drafts without charging any commission. This continued for a number of years, i.e. three years. The account was opened on 15.4.1994 and for the first time on 24.4.1997 the Bank deducted a sum of Rs. 4,43,701/- from the account of the complainant. If the Reserve Bank circular prohibited opening of a savings

bank account and also prohibited from giving any interest and facility of free draft, then the Bank should have refused to open an account in the Savings Bank category. The fault lies on the Bank for not following Reserve Bank of India circular. The savings bank account should not have been allowed to be opened. Had it been done by the Bank, then no complications would have arisen as has arisen in the present case. The officers of the Bank are guilty for flouting the orders of the Reserve Bank of India and the complainant cannot be said to be a party to it. When the complainant has been given this facility, it was the duty of the Bank to have informed the complainant that this facility is being withdrawn on account of the circular of Reserve Bank of India and thereafter the complainant should have been advised to open a current account. If even after this notice the complainant had failed to open a current account, then the Bank would have been justified in not giving any interest on the savings bank account and not providing facility of preparation of free drafts. Without informing the complainant the Bank has taken a step to debit a huge amount from the account of the complainant for the past commission which was chargeable by the Bank under the Reserve Bank of India circular and the interest which would not have been paid to the complainant.

5. THE learned District Forum has considered this aspect of the matter in detail. It is not necessary for us to repeat those facts. THE learned District Forum has also relied upon the case of Harisharan Abott v. Zonal Manager, Bank of India, III (1994) CPJ page 114. It has also relied on another case of Vijaya Bank v. Sunder Lal Sahu, reported in Vol. II (1995) CPJ 131 (NC), in which the National Commission also held the Bank liable if a mistake has been committed by the Bank. Keeping in view these facts, the judgment and order of the learned District Forum are perfectly right and no interference is required.

6. APPEAL is, therefore, liable to be dismissed summarily. Order The appeal is dismissed summarily and the judgment and order of the learned District Forum are confirmed.

Let compliance of the order be made within a period of two months from the date of this order.

7. LET copy as per rules be made available to the parties. Appeal dismissed.

