(1998) 12 NCDRC CK 0053

In the National Consumer Disputes Redressal Commission

BHOGALS APPELLANT

Vs

Reserve Bank of India RESPONDENT

Date of Decision : 21-12-1998

Acts Referred:

Citation : 1999 1 CPC 151 : 1999 1 CPJ 414

Hon'ble Judges : M.R.Agnihotri , Sushil Paul , A.D.Malik J.

Final Decision : Complaint partly allowed

Judgement

1. M/s. Bhogals-a partnership firm of Faridabad- has invoked the original jurisdiction of this Commission by filing the present complaint, alleging deficiency in service against UCO Bank regarding the grant of Interest Subsidy amounting to Rs. 12,50,105/- and claiming loss in business and demand of higher rate of interest, etc. amounting to Rs. 5 lacs.

2. ACCORDING to the complainants they are engaged in the business of manufacturing foot wear and sports shoes and their factory is located at 26 DLF, Industrial Area-I, Faridabad. In November, 1984, their factory was burnt down, on account of which they suffered tremendous financial loss as their entire stocks including the building and machinery, etc. were set on fire. Later on, Government of India floated an Interest Subsidy Scheme which covered the borrowers whose aggregate limits from all the Banks did not exceed Rs. 25,000/-. Soon thereafter a revised Central Interest Subsidy Scheme was also approved by the Government of India and in pursuance whereof Reserve Bank of India on 31st March, 1984 issued directions to the various Banks to extend Interest Subsidy to the borrowers by charging 1% simple interest and such like other facilities. As the complainant was an account holder of UCO Bank in Sector 28, Faridabad Branch, he approached the Bank for providing the aforesaid benefits and submitted the requisite formal application along with the necessary documents. The Branch Manager of UCO Bank after due verification and satisfaction of the genuineness of the claim recommended the same to the Zonal Office of UCO Bank for the grant of Interest Subsidy amounting to Rs. 12,50,105/-. In turn the

Zonal Office of the UCO Bank forwarded the proposal to their Head Office at Calcutta. Despite repeated reminders of the complainant, the necessary Interest Subsidy was not received by the complainant and in turn reply received from the UCO Bank was only to apprise the complainant of the correspondence of the UCO Bank with the Reserve Bank of India. By this in action on the part of the UCO Bank in not releasing the Interest Subsidy, the complainant suffered huge financial loss as the complainant had to pay higher rate of interest amounting to Rs. 5 lacs in the absence of the Interest Subsidy. In the mean time the complainant came to know that Interest Subsidy as claimed by the complainant and recommended by the UCO Bank had been sanctioned by the Reserve Bank of India, but the same was not released to the complainant and was returned to the Reserve Bank of India by the authorities of the UCO Bank without any valid ground. Aggrieved by this, the complainant has approached this Commission for the recovery of the aforesaid amount of Interest Subsidy and loss suffered, total amounting to Rs. 17,50,105/-.

In the reply filed by the Zonal Manager of the UCO Bank it has been pleaded, that since there is no deficiency in service on the part of Reserve Bank of India they should not have been impleaded as opposite party No. 1, especially when there was no privity of contract with them. Defending the action of the UCO Bank, apart from the technical objections regarding the maintainability of the complaint on the ground, that the complainant was not a consumer and the claim was barred by time, etc., on merits, it was pleaded that sanctioning of financial aid, etc. was within the discretion of the Bank and the non- grant of the same does not constitute deficiency in service. It is further pleaded, that no doubt the complainant''s case was considered as a deserving one initially and it was duly recommended and forwarded to the Head Office, but on review of the matter the Bank came to the conclusion that it was not a ''deserving case'' for the release of Interest Subsidy. Therefore, the Bank was not liable for the financial losses suffered by the complainant.

3. THE parties filed their affidavits and counter-affidavits by way of evidence and produced instructions issued by the Reserve Bank of India, Scheme for grant of Interest Subsidy and the correspondence exchanged between the Reserve Bank of India and the UCO Bank. After considering the aforesaid documentary evidence produced by the parties and having heard their learned Counsel we are of the considered view, that there is sufficient merit in the complaint and there was a clear deficiency in service on the part of the UCO Bank in the matter of grant of Interest Subsidy to the complainant. It has been authoritatively held by the Hon''ble National Commission in the case of State Bank of Bikaner and Jaipur v. M/s. Chavan Rishi International Limited, III (1995) CPJ 31 (NC), that grant of various facilities in connection with Banking stood included in the definition of "service" and beneficiary of this facility is included within the definition of ''consumer'' under the Consumer Protection Act. Dealing with exactly identical matter, the Hon''ble National Commission held the Bank liable for the losses suffered by the complainant and directed the Bank to indemnify the complainant.

Therefore, the technical objections raised by the UCO Bank regarding the maintainability of the present complaint are not tenable in law; hence repelled. Regarding the grant of Interest Subsidy, there is no difficulty for arriving at the conclusion that UCO Bank considering the various pros and cons of the claim made by the complainant had recommended his case to the Zonal Office and onwards to the Head Office of the Bank as an eligible ''deserving case'' under the Government of India''s Central Revised Scheme. Not only that, the Reserve Bank of India thereafter found the claim of the complainant as a deserving case under the Scheme and sanctioned the necessary Interest Subsidy to the complainant. But the UCO Bank instead of releasing the necessary grant to the complainant at their own end, reviewed the matter and rejected the same without even informing the complainant about the same or affording an opportunity to the complainant to resolve any discrepancy, if at all there was any in the claim. This on the face of it amounts to gross deficiency in service on the part of UCO Bank. To be fair to the Bank it must be noticed, that their learned Counsel has placed reliance on decisions of the Bihar State Commission, M/s. Mandal Plastic Industries and Others v. The Bihar State Financial Corporation and the Kerala State Commission in Syndicate Bank and Others v. Borrowers, as also an earlier decision of the Hon''ble National Commission itself, in the case of M/s. Sawhney Export House Pvt. Limited v. Noida and Others. Firstly, all these decisions are earlier in point of time to the aforesaid decision of the Hon''ble National Commission in State Bank of Bikaner and Jaipur v. M/s. Chavan Rishi International Limited dated 6th January, 1995. Secondly, all these cases relied upon by the UCO Bank related to advancement of loans by borrowers and not relating to the release of a financial benefit by Government of India through the agencies of the Banks with which the beneficiaries were having their accounts; therefore, they are of no help to the opposite party-Bank. Under the circumstances we allow the complaint and direct the opposite parties - Reserve Bank of India as well as the UCO Bank - to release the Interest Subsidy to the complainant, as claimed by the complainant and recommended by the UCO Bank and sanctioned by the Reserve Bank of India, within one month of the receipt of the copy of the order. So far as the loss suffered by the complainant on account of non-release of the Interest Subsidy due to deficiency in service on the part of the UCO Bank is concerned, since the complainant has not produced any cogent or convincing evidence regarding the exact amount of the loss suffered, the same is declined. The complaint thus stands partly allowed with regard to the release of Interest Subsidy only. Under the circumstances of the case, the complainant shall also be entitled to the costs of litigation, which are quantified as Rs. 2000/-. Complaint partly allowed.

