(1992) 06 NCDRC CK 0025

In the National Consumer Disputes Redressal Commission

BHUPENDRA KUMAR NANALAL RAJGURU APPELLANT

Vs

State Bank of India RESPONDENT

Date of Decision : 15-06-1992

Acts Referred:

Citation : 1992 2 CPJ 817 : 1992 2 CPR 324

Hon'ble Judges : A.Shah , Leelaben Trivedi , R.K.Shah J.

Final Decision : Appeal allowed with costs

Judgement

1. THE appellant is the original complainant and the respondent is the original opposite party. We will address the parties as complainant and opponent for the sake of convenience. On 1.10.90 the complainant purchased a demand draft by paying Rs. 150/- plus service charges. THE demand draft No. was 056431 dated 1.10.90 in favour of the Institution of Engineering India Limited, Calcutta. THE complainant wanted to appear in the winter examination 1990 conducted by the Institution of Engineers India Limited. THE fees of Rs. 150/- was, therefore, sent by draft which guarantees the payment to the Educational Institution. THE draft was purchased from the State Bank of India Alkapuri Branch, Baroda and was payable at Calcutta. Unfortunately, when the educational institution sent the draft for collection though it was a draft on the printed paper of the State Bank of India and was also according to the Bank duly signed by the Branch Manager. But the signature of the teller was not there and, therefore, the Calcutta Branch dishonoured the draft with the result that the complainant could not appear for the said examination and spoiled one year as alleged in the complaint.

2. MR. Sanjay Almoula, the learned Counsel appearing on behalf of the Respondent states that this draft was not signed by the teller and, therefore, the same was not accepted. According to him it was a human error. We do not find this argument to be tenable because the Bank is doing this business since many years and is the leading Bank of India. The person who issued the draft knows who should sign the draft. It is none of the function of the consumer to know whether the draft is to be signed by one person or two persons. When the draft

was issued to the consumer it was also the duty of the clerk at the counter to verify the same, note it in the register and take the signature when delivered to the customer. The draft has to pass through many checkings. Either they may not have noticed the mistake or must have been totally negligent in verifying the same. Apart from this, the draft was in favour of the educational institution i.e. Institution of Engineering India Limited. The payee bank at Calcutta could have taken the risk and made the payment of Rs. 150/- when they saw that the draft was in a proper printed form bearing the name of State Bank of India and also signed by the Branch Manager. The draft cannot be said to be counterfeit draft especially when it was in favour of such a big institution. In any view of the matter the branch at Calcutta could have taken instruction on telephone from Baroda branch and even if there was a mistake, it was an internal mistake and not a statutory mistake. They can always make payment of the draft. We are therefore of the opinion that not only there was carelessness but it was utter negligence of the staff at Calcutta also who knew that dishonouring such a draft would put the student in a very precarius position. No evidence is produced as to why the draft was not encashed, even though it was defective, at Calcutta Branch. We therefore are of the opinion that the services rendered by the bank was deficient to the extent of total negligence.

So far the question of damages are concerned, we are of the opinion that the reasons given by the District Forum cannot be accepted. If the student has lost one year, or according to the learned advocate of the respondent six months, is a very serious matter. Six months or one year of one''s life cannot be compensated with any amount of money. He must have suffered pain and shock and the amount of damages assessed by the learned Judge is at a very low side. We are of the opinion that for such negligence the Bank must be saddled with exemplary damages. This is a fit case where exemplary damages should be awarded. If the teller has not signed the draft, which he ought to have signed, the Bank must take action against responsible persons and that would be the proper thing in our opinion, because the Bank should not suffer for the negligence of its officers. Any way it is for the Bank to take proper action. Considering the facts and circumstances of the case we are of the opinion that minimum Rs. 15,000/- should be awarded by way of damages and both for the pain and suffering. The appeal is, therefore, allowed and the following order is passed. ORDER The appeal is allowed. The decision of the District Forum with regard to the damages is modified The respondent will pay Rs. 15,000/- by way of damages with running interest @ 18% from the date of the complaint till the amount is paid with cost throughout which we quantify at Rs. 2,000/- for both Courts. (One thousand) The Respondent will pay this amount after deducting any amount already paid within 4 weeks from the date of receipt of this order. Appeal allowed with costs.

