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(1993) 12 NCDRC CK 0020

In the National Consumer Disputes Redressal Commission

BHUPINDER KUMAR SHARMA APPELLANT

Vs

NATIONAL RESEARCH DEVELOPMENT CORPORATION RESPONDENT

Date of Decision : 17-12-1993

Acts Referred:

Citation : 1993 0 NCDRC 43 : 1994 1 CLT 547 : 1994 1 CPC 281 : 1994 1 CPJ 118 : 1994 1 CPJ 86 : 1994 1 CPR 90

Hon'ble Judges : V.BALAKRISHNA ERADI , A.S.VIJAYAKAR , Y.KRISHAN , B.S.YADAV J.

Advocate : KAILASH VASUDEV , DES RAJ

Judgement

1. THIS complaint is targeted at the Opposite Parties Nos. 3 & 4, The Pathankot Hindu Co-operative Urban Bank Limited, and Opposite Party No. 1 National Research Development Corporation of India and Opposite Party No. 2 Punjab State Co-operative Bank, Chandigarh are only proforma respondents. 1. According to the complainant, there were two occasions on which the Opposite Party No. 3, the Pathankot Hindu Co-operative Urban Bank Limited had been guilty of deficiency in service towards the complainant as the bank''s client. The relevant facts relating to these two cases of alleged deficiencies in service are briefly given below.

2. THE firm was registered with the Registrar of Firms as Punjab Coal Briquettes. The complainant had opened a current account No. 134 with the Bank on 7th December, 1990 in the name and style of Punjab Coal Briquettes. Subsequently (i.e. after 29.12.1990) the complainant had furnished an affidavit (the copy of the affidavit in the Paper Book is undated) stating that he was the sole proprietor of the firm M/s. Punjab Coal Briquettes and he was also the General Manager and the Manager of the said concern. The complainant issued a cheque on 5th January, 1991 on his bankers, the Pathankot Hindu Co-operative Urban Bank Limited for Rs. 25,000/- towards the payment of the lump sum premium of process fee in favour of the National Research Development Corporation. However, the bank did not honour the cheque when presented by the drawee as

the bank had stopped the operation of the account. According to the complainant there were sufficient funds in his current account and the refusal of the bank to honour the cheque and returning the same to the holder unpaid was a violation of Section 31 of the Negotiable Instruments Act and therefore, had committed a deficiency in service.

3. THE second case of alleged deficiency in service by the respondent bank took place shortly thereafter on 30th March, 1991. The complainant applied to the bank for issue of a draft in favour of the National Research Development Corporation, New Delhi for Rs. 25,000/-. He had applied for the bank draft in his capacity as proprietor Punjab Coal Briquettes. The bank draft however, was not issued by the Branch Manager of the bank on the ground that the operations of his account had been stopped.

4. ACCORDING to the complainant the respondent bank had no authority to refuse issuing the bank draft when funds were available in his bank account and therefore the action of the bank was illegal, contrary to the provisions of the banking rules and therefore, the bank was guilty of deficiency of service. It is within this narrow compass that we have to examine the complaint. According to the respondent bank on 8th December, 1990, after the account was opened, the bank had told the complainant Shri Bhupinder Kumar Sharma that the formalities relating to the opening of the current account had to be completed and he was asked to do so. At the hearing the Counsel for the bank explained that at the time of opening the bank account, the complainant had stated that, he was the sole proprietor of the firm and that he would sign the cheques on behalf of the firm in that capacity, but actually he signed cheques as the Manager of the Company, ft was one of the formalities to be carried out whether he was operating the Account in the capacity in which the Account was opened before he could be allowed to operate the bank account. A communication was issued to him to this effect on the 8th December, 1990 as cheque was presented having the seal of Manager as distinct from the seal of the firm contrary to the operational system agreed to between the bank and the party. Its receipt was denied by the complainant. However, this was again pointed out by the Bank on 29.12.1990 and 3.1.1991. Again drafts were received by the bank for collection which were in favour of General Manager, Punjab Coal Briquettes and not the firm as such. The bank''s branch again pointed this out to the complainant on 29th December, 1990. On 3rd January, 1991 the respondent bank again asked the complainant to complete the formalities regarding documents in which General Manager/Manager were authorised to operate the account.

5. ON 19th January, it came to the notice of the Bank that the Punjab Coal Briquettes had indulged in certain alleged malpractices and had collected money from applicants for appointment to posts within the Punjab Coal Briquettes. On 21st January, 1991, the respondent bank after due notice stopped the operation of the account.

6. THE opposite party-Bank also sought the advice of the Reserve Bank of India

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on 27th February, 1991 which had advised in October, 1991 filing a case with the Police for investigation. From the facts quoted above, it would appear that the bank was within its rights not to allow the complainant to operate the bank account pending completion of the formalities and also subsequently when it entertained doubts whether the complainant was engaged in bona fide and legitimate business or commercial activity. We do not feel that it can be said that the bank was guilty of deficiency in service when it took a deliberate decision not to allow him to operate his bank account. We, therefore, dismiss the complaint without prejudice to the right of the complainant to seekredress in Civil Court if he is so advised.

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