(1994) 03 NCDRC CK 0009

In the National Consumer Disputes Redressal Commission

BRANCH MANAGER, INDIAN BANK — APPELLANT

Vs

DISTT. COLLECTOR And OTHERS — RESPONDENT

Date of Decision : 04-03-1994

Acts Referred:

Citation : 1995 1 CPJ 450 : 1995 2 CLT 563 : 1995 2 CPC 178 : 1995 2 CPR 483

Hon'ble Judges : A.Venkatarami Reddy , J.Ananda Lakshmi , C.V.Subba Reddy J.

Final Decision : Appeals dismissed

Judgement

1. THESE two appeals arise out of an order passed in C.D. No. 1099/90, District Forum, Khammam and hence are being disposed of by a common order.

2. AGGRIEVED by the order of the District Forum granting Rs. 1000/- as compensation, the 3rd opposite party, the Indian Bank, preferred appeal, C.D.A, No. 302/91. Complaining that the District Forum should have directed the bank to release the loan and payment of a sum of Rs. 9500/- towards cost of construction of shed and Rs. 36/- per day towards wages, the complainant preferred appeal, C.D.A. No. 81/92. Briefly stated, the complainant, educated unemployed woman, was selected for grant of loan under Gramodaya Scheme for setting up of an ice-parlour and was referred by the second opposite party to the Indian Bank i.e. the third opposite party for sanction of loan. The complainant went to the Bank and contacted its Manager on 11.1.90 who asked the complainant to see him on 9.3.90 and again on 23.3.90. She was informed by the Manager that loan would be sanctioned to her for establishing Kirana business and also fancy articles. Hence another application was obtained on 23.3.90 by the Manager of opposite party No. 3 for grant of loan towards Kirana shop and she was informed that loan would be released within a fortnight. Inspite of the complainant and her husband going round the bank number of times the loan was not released for setting up Kirana and Fancy business. But the Manager of the third opposite party asked the complainant again to change her proposed business activity to Mini Modern Rice Mill. Hoping that the loan would be sanctioned, she submitted an application on 27.6.90 to the third

opposite party and it was forwarded to the second opposite party. The Manager said that he would recommend for the loan. Thereafter, the complainant went round the bank number of times but no loan was sanctioned. The complainant spent about Rs. 8000/-, expecting the release of the loan, for erection of shed and Rs. 1500/- towards fares and other ancillary expenses for going to the Bank from her village, which is at a distance of 24 kms. She, therefore, filed a complaint seeking for a direction for release of the loan and also for compensation.

The first and second opposite parties pleaded in their counter that if the bank gave consent for starting Mini Modern Rice Mill they will consider and permit the change of line of activity. But the Mini Moderm Rice Mill is not encouraged as the cost of the unit exceeds Rs, 35,000/- which is the limit of the Gramodaya Scheme. It was also made clear that they did not receive any letter from the opposite party No. 3 or from the complainant for change of line of business, to Mini Modern Rice Mill.

3. THE third opposite party took a stand that the complainant on her own accord gave another application on 23.4.90 to sanction loan for starting Kirana and Fancy Shop. THE second opposite party did not recommend the loan for Kirana and Fancy Shop, and that the complainant appeared to be a fickle-minded person and not interested in starting a business venture. It is further submitted that it is the discretion of the bank to grant loan or not after satisfying itself. It was asserted that the complainant''s husband visited the bank on her behalf. THE third opposite party did not satisfy itself about the bonafides of the complainant for seeking a loan. Apart from marking documents the husband of the complainant was examined as P.W.I and on behalf of the bank, the Manager was examined as R.W.I. On consideration of the evidence, the District Forum held that it cannot direct the opposite party No. 3 to release the loan as it is in the discretion of the opposite party No. 3 to sanction the loan having regard to various circumstances. It therefore, rejected the prayer with regard to direction to sanction the loan. The District Forum held that the third opposite party somehow was trying to put off the complainant without giving a loan and made her or her husband to go round the bank several times, which constituted deficiency in service. As the village of the complainant 24 kms. away from the bank, it directed payment of Rs. 1000/- towards compensation.

4. IN the appeal preferred by the bank, it is submitted that the complainant on her own accord did not want the sanction of loan for setting up of Ice-cream Parlour as recommended by the second opposite party but she changed the project to that of Kirana and Fancy Stores which was not accepted by the second opposite party. Thereafter, she addressed the second opposite party for change of business to Mini Modern Rice Mill. As the complainant went on changing from time to time with regard to the mode of business she wanted to establish and as Mini Modern Rice Mill was not recommended by the second opposite party, there is no deficiency of service on the part of the third opposite party and the

allegation that the complainant or her husband visited the bank number of times is not correct. But, before the District Forum, the husband of the complainant, as P.W.I, categorically deposed that it was only at the suggestion of the bank Manager that the project was changed from Ice-cream Parlour to Kirana and Fancy Stores initially and thereafter to Mini Modern Rice Mill. They were made to go round the bank number of times and ultimately no loan was sanctioned. The District Forum believed the version of P.W.I in preference to R.W.I and came to the conclusion that the change of business might have been suggested by the Manager of the Bank. This finding of the District Forum apart from the evidence of P.W.I is also probabilised by the circumstance that the application for changing into Mini Modern Rice Mill, although was addressed to the second opposite party, the Bank Manager endorsed on the same saying that the application may be considered favourably. The second opposite party in its counter stated that it did not receive any such application forwarded by the bank. It was also stated that the setting up of Mini Modern Rice Mill is not encouraged under the Gramodaya Scheme but if the bank is favourably disposed of to grant loan, the second opposite party has no objection for approving the scheme. It is clear that unless the Bank Manager informed the complainant that they would sanction the loan for Mini Modern Rice Mill, as it is not a scheme encouraged by the Gramodaya Scheme, the complainant herself would not have applied in the absence of an indication from the bank that they would sanction the loan. This is clear from the circumstance that the Manager endorsed on the application that it may be considered favourably. It is also clear that initially she went to the bank sometime in January, 1990 and that even after a period of five months no loan was sanctioned to her. It probabilises, the complainant''s version that in view of the circumstance that there was application for change of project, which according to the complainant, was suggested by the bank. She or her husband might have gone round the bank number of times with the hope that if applications are made under the scheme as suggested by the bank, the bank would sanction the loan. Unless the bank indicated that loan would be granted either for Kirana and Fancy Stores or for Mini Modern Rice Mill, to the complainant, it is reasonable to infer, that the complainant would not have applied for change of business. IN the circumstances, we are satisfied that on account of the attitude of the third opposite party, the complainant was made to go round the bank which will amount to deficiency in service. The District Forum, therefore, is justified in awarding compensation of Rs. 1000/- having regard to the circumstances of the case. Therefore, we are not inclined to accept the contention of the appellant-bank. IN the appeal preferred by the complainant it is submitted that expecting the release of the loan, she has constructed a shed at an expense of nearly Rs. 8000/-. She also incurred an expenditure of Rs. 1500/- to go round the bank and also for engaging an employee on daily wages at the rate of Rs. 36.00 per day. She, therefore, claimed these amounts in this appeal. There is no material produced to show that the complainant incurred expenditure for either constructing a shed or for other expenditure. Moreover, the third opposite party did not ask her to construct a shed, in which event, the bank cannot be made liable for expenses for constructing a shed and loss on wages. IN the absence of any proof of actual expenditure, the complainant is not entitled to claim anything more than what was ordered by the District Forum. IN the result both the appeals fail and are dismissed. There shall be no order as to costs in these two appeals. Appeals dismissed.

