(1998) 07 NCDRC CK 0012

In the National Consumer Disputes Redressal Commission

Branch Manager, State Bank of India — APPELLANT

Vs

ORIENTAL RICE MILLS — RESPONDENT

Date of Decision : 16-07-1998

Acts Referred:

Citation : 1999 3 CPJ 179 : 2000 1 CPR 518

Hon'ble Judges : A.K.Bhattacharjee , Monoranjan Ghosh J.

Final Decision : Appeal partly allowed

Judgement

1. THIS is an appeal against an order of the District Forum, Birbhum, allowing a petition of complaint filed by the respondent-complainant. The complainant''s case was that one Raghunath Prasad, a wholesale dealer in rice and proprietor of M/s. Shankar Stores, Gola Road, Barh, Patna negotiated the purchase of 100 quintals of rice from the complainant''s firm and for this purpose handed over a demand draft dated 22.7.1992 for Rs. 50,000/-, issued by the State Bank of India, Barh Branch as the value of the rice. The draft was payable at the Ahmedpur Branch of the State Bank of India. On 25.7.1992 Raghunath Prasad took the draft to the Branch Manager, S.B.I., Ahmedpur Branch (O.P. No. 1) for confirming the mode of endorsement, but the said opposite party refused to accept the draft on the plea that a circular issued by the Government of India prohibited the acceptance of such instruments. The opposite party No. 1, of course, did not show the circular to Raghunath Prasad. On 27.7.1992 the complainant again presented the instrument to the opposite party No. 1 through their current account maintained with the opposite party Bank at Ahmedpur. But this time also the draft was refused on the same plea. The Suri Branch of the S.B.I, by their letter No. S/1993 dated 7.8.1992 informed that Rs. 50,000/- and over should be made through the proper banking channel as per circular (BDD) Gen. 24/91-92. According to the complainant had there been any embargo the Suri Branch would not have accepted the instrument for collection. On 7.8.1992 the complainant was informed that the said amount was not collected and accordingly he pursued the matter of payment with the customer and got fresh payment on 11.8.1992.

2. THE complainant alleged that he was harassed for the non-payment against the draft and prayed for compensation on various counts like receipt of draft charges without honouring the draft, charges debited by the Suri Branch against the draft, loss of business, incidental costs, etc. The case was contested by the O.Ps. on various grounds, namely, that the draft in question could not be endorsed to a third person, that the petitioner was not a consumer, that the draft could not be encashed on account of the embargo put by the Reserve Bank of India by way of a circular. According to the O.Ps. therefore, non-payment by the Ahmedpur Branch did not amount to any deficiency in service in this case.

The District Forum rejected all the technical objections and held that the case was maintainable. The Forum found that the Bank had deficiency in service, but its view was that the complainant was not entitled to the amount of damages claimed although it was entitled to some damages. The Forum accordingly passed a compensation of Rs. 7,500/- and a cost of Rs. 500/-. The present appeal is against the said order.

3. WE are in agreement with the District Forum that the case is maintainable. The facts of the present case are not disputed. Admittedly a demand draft of Rs. 50,000/- was issued to Raghunath Prasad by the Barh Branch of the State Bank of India payable at the Ahmedpur Branch of the said Bank. The draft was endorsed in favour of the complainant. The demand draft being a negotiable instrument and being in the nature of a cheque is capable of being endorsed. The only substantial objection against the payment in this case is an embargo put on the issue of drafts exceeding a value of 50,000/- rupees and also on payment of such drafts in cash as per instructions contained in a circular letter (BOD) (GEN) 24/91-92 dated 25.5.1991. A xerox copy of such a circular has been placed in the file, although it is not clear from which office it was issued. However, the said circular encloses another copy of a letter dated 19.4.1991 issued by the Reserve Bank of India. The relevant portion of the Bank''s letter dated 25.5.1991 is as follows : "It has been decided by Reserve Bank of India in consultation with the Government and India Bank Association that in order to curb the misuse of the banking channels for violation of fiscal laws and evasion of taxes, demand drafts, mail transfers, telegraphic transfers and travellers cheques for Rs. 50,000/- and above henceforth should be issued by the Bank only by debit to the customer''s account or against cheques and other instruments tendered by the purchaser and not against cash payment. Similarly such payments for Rs. 50,000/- and above should be made through the banking channels and not in cash. A copy of R.B.I. letter No. DBOD. No. BP.SC.114/ C.469(81)-91 dated 19.4.1991 in this regard is enclosed for your perusal."

The pertinent question that arises is although the Bank''s circular is dated 25.5.1991 why was a demand draft for an amount of Rs. 50,000/- issued on 22.7.1992 ? Obviously the Barh Branch acted against the circular by causing harassment and loss to the purchaser of the draft. Neither the Barh Branch nor the State Bank of India itself has been made a party in this case. Hence no relief against them can be given.

4. THE next question that comes and which has weighed with the decision of the District Forum is even when the endorsee of the draft prayed for payment of the money through their Bank account the Bank did not agree. Neither did the relevant branches of the S.B.I, explain why such payment could not be made. It should be noted that the Bank changed the due fees for the issue of the draft and also for clearing a cheque of a different station. For the action of the Bank the customer had to suffer. A Bank issuing a demand draft is bound to honour the draft and for its mistake the customer should not be asked to suffer. We, therefore, endorse the view taken by the District Forum that there was deficiency on the part of the opposite parties. As regards the damages claimed also we agree to the remarks of the Forum that the special damage claimed by the petitioner has not been proved. We, however, fail to understand how the Forum has assessed the compensation at Rs. 7,500/-Considering the unnecessary expenses the complainant had to incur and the harassment and the mental agony he had to suffer we think that justice would be met if the complainant is given a total compensation of Rs. 1,000/- (one thousand) only besides the cost awarded by the lower Court. Hence this appeal is allowed in part. The impugned order of the lower Court is affirmed subject to the modification that the opposite parties shall pay to the complainant a compensation of Rs. 1,000/- (Rupees one thousand only) and also a cost of Rs. 500/- (Rupees five hundred only). The appeal is thus disposed of. Appeal partly allowed.

