(1993) 09 NCDRC CK 0046

In the National Consumer Disputes Redressal Commission

CENTRAL BANK OF INDIA APPELLANT

Vs

DIL BAHADUR SINGH RESPONDENT

Date of Decision : 27-09-1993

Acts Referred:

Citation : 1993 3 CPJ 319 : 1994 1 CLT 46 : 1994 1 CPC 15

Hon'ble Judges : V.Balakrishna Eradi , A.S.Vijayakar , B.S.Yadav J.

Advocate : S.D.Sharma , S.K.Sharma

Final Decision : Dismissed

Judgement

1. THE facts leading to this revision petition are that the respondent, Dil Bahadur Singh (who has since died and whose legal representatives have been brought on the record) was employed as a Daftary in the Central Bank of India, Bareilly Branch. He retired from the services of the Bank on 31st December, 1987. As an employee of the Bank, he had been provided with a residential accommodation. After his reitrement he claimed gratuity and provident fund due to him and which had been withheld by the Bank as he did not hand over the possession of the allotted accommodation to the Bank after his retirement. THEreafter the respondent requested the Bank in writing to give him the gratuity as he was in need of money for the purpose of construction of his house and that the amount due as the provident fund be kept till he vacated the house. THE Bank, therefore, kept the provident found amount of Rs. 43,936.26 due to the respondent in the Savings Bank Account of the respondent with the said branch of the Bank but stopped the operation of the said account. THE respondent did not hand over the possession of the allotted premises and on other hand started making demands of the money by way of the operation of the said account. When he Bank did not permit the operation of the account, the respondent filed a complaint before the District Forum, Bareilly claiming the said amount of Rs. 43,936.26 plus interest at the rate of 24 per cent. He also claimed compensation which he quantified at Rs. 25,000/-.

2. THE said complaint was contested by the Opp. Party, that is the present

petitioners before us, by filing a counter in which they said that the claimant, respondent had himself given in writing that the amount of provident fund need not be paid to him till he vacated the allotted accommodation. The District Forum held that the claimant was entitled to the payment of the Provident Fund amount and the vacation of the allotted premises by him had no connection with it and it was an entirely different matter and, therefore, non-payment of the provident fund was not justifiable. Consequently, the District Forum ordered the Opp. Party to pay a sum of Rs. 43,936.26 to the claimant within one month of that order with interest at the rate of 18 per cent. Rs. 2,000/- was also awarded to the claimant as compensation.

Aggrieved by the said order of the District Forum, the present petitioner filed an appeal before the State Commission, Lucknow. The State Commission held that the savings bank account of the respondent was as a depositor which could be operated by him in any manner. About the interest allowed by the District Forum, the State Commission held that the provident fund account is related to the service matters of the employee, which was outside the purview of the Consumer Protection Act, 1986 (for short the Act). The State Commission also held that the claimant was not entitled to any compensation. Accordingly it allowed the respondent to operate the account but set aside the order of the District Forum with respect to the other reliefs granted by the latter.

3. STILL not being satisfied, the petitioner has come before us by way of this revision petition. After hearing the parties and going trough the records, we are of the opinion that the dispute in question does not fall within the purview of the Act. The claim of the respondent-complainant was about the non-payment of provident fund to him. Of course, the provident fund cannot be retained by the employer, but for that matter the proper remedy for the claimant was to approach a Civil Court. Payment of provident fund can by no stretch of imagination be said to be "rendering of service" under the Act. Of course in the present case the employer was the Bank, but the payment of provident fund does not relate to "banking service" which service has been included in the definition of "service" as given in Clause (o) of Sub-section (1) of Section 2 of the Act. The State Commission has allowed the complainant to operate the savings bank account in which amount of provident fund due to Dil Bahadur Singh deceased has been deposited on the ground that the depositor is entitled to operate his account. As noticed above, the Bank is not rendering any banking service with respect to this amount. It appears that to safeguard the interest of the complainant, the amount has been deposited in the savings bank account of the claimant so that he may not suffer any loss of interest. For the foregoing reasons, both the District Forum and the State Commission must be held to have exceeded their jurisdiction vested in them while granting relief to the complainant under the Act. Consequently, we set aside the order of the State Commission as well as of the District Forum and dismiss the complaint. In the circumstances of the case, we make no order as to costs. Complaint dismissed.

