

(2004) 06 NCDRC CK 0033

In the National Consumer Disputes Redressal Commission

CHANDRAMOHAN M. ANCHAN

APPELLANT

Vs

BANK OF BARODA

RESPONDENT

Date of Decision : 16-06-2004

Acts Referred:

Citation : 2004 4 CPJ 542

Hon'ble Judges : M.S.Rane , R.N.Varhadi J.

Final Decision : Appeal allowed

Judgement

1. RESPONDENTS are present through their Advocate in response to the notices before admission issued by us on 8th January, 2004. (For brevity's sake appellant herein is hereinafter referred to as "complainant" and respondent as "O.P.s.")

2. COMPLAINANT is the appellant in this appeal and being aggrieved by order dated 3rd October, 2003, passed by South Mumbai District Forum dismissing his complaint that this appeal has been filed. We do not consider it necessary to have detailed advertence to the factual matrix as obtained in the matter herein or for that matter consider the merits or demerits arising in the matter herein.

The bare glance on the material available in the appeal paper book including complaint of the complainant before the District Forum shows that the complainant is an employee of the bank and had joined the Provident Fund Scheme for which the Bank has constituted a separate Trust under exempted category. The complainant by virtue of being employee had certain grievances in respect of certain amounts which he felt was wrongfully denied to him.

3. THE Bank it is noticed objected to the maintainability of the complaint as a consumer dispute and in support has also cited certain decisions in Paragraph 6 of the impugned judgment. It cannot be made out from the citations/authorities as appearing in the judgment, the Forum rendering such decision. However, we wish to state that issue involved in the matter herein is more res integra in view of decision of the Supreme Court in the case of Regional Provident Fund

Commissioner v. Shivkumar Joshi, reported in III (1999) CPJ 36 (SC)=X (1999) SLT 395=2000 (3) Civil Law Journal Page-59 corresponding to 2000 (1) SCCR page 424, where the Supreme Court has held that participation in the Provident Fund Scheme would fall in the category of consumer and as such claimed reliefs before Consumer Fora. That being so, the judgment impugned in this appeal cannot be upheld. In interest of justice, we think it appropriate that this matter should go back to the District Forum for consideration afresh on merits. Hence the following order : ORDER (1) Appeal is allowed and order dated 3rd October, 2003 is set aside. (2) Matter is remitted to the South Mumbai District Forum for consideration afresh on merits in accordance with the provisions of the Law and the Rules and on giving proper opportunities to the parties thereunder. (3) Appellant's Advocate shall furnish copy of the order herein to the South Mumbai District Forum immediately. (4) By consent the date of appearance before the South Mumbai District Forum by parties is fixed on 11th August, 2004 on which date the parties shall ensure their appearances before the District Forum without fail and seek the directions with regard to the fixation of date of hearing. (5) It is made clear and distinctly understood to the parties that no further notices for appearance will be required to be issued by the District Forum to the parties. (6) The District Forum shall proceed to dispose of the complaint totally uninfluenced by its earlier findings or any observations of ours in the judgment herein concerning the merits of the matter treating the same as our prima facie views and observations thereof. (7) District Forum to ensure expeditious disposal of the matter after remand. (8) As far as this appeal is concerned, no order as to costs. (9) Office shall furnish copies of the order to the parties.

Appeal allowed.