

(1998) 10 NCDRC CK 0029

In the National Consumer Disputes Redressal Commission

COMMISSIONER, PANCHAYAT UNION, AMBASAMUDRAM

APPELLANT

Vs

K. GOMATHI

RESPONDENT

Date of Decision : 07-10-1998

Acts Referred:

Citation : 1998 3 CPR 464 : 1999 1 CPJ 481

Hon'ble Judges : E.J.Bellie , Pulavar V.S.Kandasamy , Angel Arulraj J.

Final Decision : Appeal and Revision allowed

Judgement

1. THIS A.P. No. 335/1998 and R.P. No. 14/1998 arise out of one order passed by the District Forum, Tirunelveli in O.P. No. 100/1997. The point involved in both these matters being the same, they can be disposed of in one common order here.

2. THE complainant K. Gomathi's husband Kaliyugavaradharaman was working as Panchayat Assistant in Thiruvaleeswaram Panchayat in Ambasamudram Panchayat Union. He was getting a fixed salary of Rs. 400/- per month from 31.12.1990 onwards as per the orders passed by the Panchayat Union Commissioner, Ambasamudram in his proceedings dated 31.12.1990. A sum of Rs. 10/- per month was being deducted from his salary towards Family Benefit Fund Scheme. THE complainant had been nominated by her husband to get the benefit of the said scheme. While so, during the course of his employment, the complainant's husband died on 17.5.1996. On 12.6.1996, the complainant, as the nominee, claimed a sum of Rs. 60,000/- as the lumpsum amount payable under the Benefit Fund Scheme from the Panchayat Union Commissioner viz., the 1st opposite party. But there was no response. THEREafter the complainant sent a petition to the District Collector, the 2nd opposite party. Subsequently her claim was rejected. Alleging deficiency in service on the part of the opposite parties the complaint has been filed for directing them to pay a sum of Rs. 60,000/- with interest thereon.

The opposite parties contended that they received a letter dated 1.11.1996 from the Tamil Nadu Government Rural Development (E5) Department, Secretariat,

Chennai, stating that the Family Benefit Fund Scheme was not applicable to employees of local bodies including the Panchayat Assistants and Rural Medical Officers of Panchayat Unions and therefore they were unable to grant the lumpsum amount claimed by the complainant under the said Scheme, and as such there was no deficiency in service on their part.

3. THE District Forum, on consideration of the evidence, accepted the case of the complainant that there was deficiency in service on the part of the opposite parties in not granting the amount claimed by her. It then directed the opposite parties to pay the amount claimed with interest at 18% per annum from the date of complaint till realisation and also a sum of Rs. 500/- as cost of the proceedings. As against this order, the 1st opposite party, Commissioner, Panchayat Union, Ambasamudram has filed appeal in A.P. No. 335/1998 and the 2nd opposite party, the District Collector, Tirunelveli District has filed Revision Petition in R.P. No. 14/1998.

4. IT is argued before us on behalf of both the opposite parties that the order of the District Forum is not sustainable in law and on facts. We find much force in this contention. IT is true that a sum of Rs. 10/- was deducted every month from the salary of the complainant's husband towards the Family Benefit Fund Scheme from the date of his appointment viz., 31.12.1990 till the date he died viz., 17.5.1996. The contention of the opposite parties is that because of the letter Ex. A- 3 dated 1.11.1996 from the Tamil Nadu Government Rural Development (E5) Department, Secretariat, Chennai, stating that the Family Benefit Fund Scheme is not applicable to the local body employees including Panchayat Assistants and Rural Medical Officers they were not able to grant the amount claimed. This letter (Ex. A-3) had been sent by the Tamil Nadu Government Rural Development (E5) Department, Secretariat, Chennai in response to a letter sent by the Director of Treasuries & Accounts dated 21.5.1992 asking for clarification as to whether the Family Benefit Fund Scheme was applicable to, inter alia, the Panchayat Assistants. Having received Ex. A-3 letter, the opposite parties cannot be expected to grant the amount claimed. Even according to the complainant, as seen from the complaint, because of this letter the opposite parties had rejected her claim. As such, undoubtedly, it cannot be held that there was deficiency in service on the part of the opposite parties in rejecting the complainant's claim. IT appears, according to the District Forum, having collected the subscription amount of Rs. 10/- per month from 31.12.1990 to 17.5.1996 it was not proper on the part of the opposite parties to say that the complainant was not entitled to get the benefit of the Scheme. IT is further according to the District Forum that whereas the Director of Treasuries and Accounts had written his letter for clarification as early as 21.5.1992, the Tamil Nadu Government Rural Development (E5) Department, Secretariat, Chennai, had sent the clarification letter Ex. A, A-3 only on 1.11.1996 and for such a long delay no acceptable reason had been given. But the question is whether the Family Benefit Fund Scheme is applicable to the Panchayat Assistants. If it was not applicable the recovery of subscription amount from the

salary of the complainant's husband was a mistake. Only because a mistake had been committed it cannot be said that the Family Benefit Fund Scheme was applicable to Panchayat Assistants nor can it be said that even if the Family Benefit Fund Scheme was not applicable the opposite parties should pay the benefit of the Scheme to the complainant. The delay in sending Ex. A-3 clarification letter dated 1.11.1996 in reply to the letter dated 21.5.1992 of the Director of Treasuries and Accounts is immaterial. Therefore that delay cannot give any right to the complainant. The complainant has not categorically stated in the complaint that the Family Benefit Fund Scheme is applicable to Panchayat Assistants and the order of the District Forum also does not in clear terms state so. In these circumstances the remedy if any for the complainant is to file a civil suit or to invoke the writ jurisdiction of the High Court. In this view of the matter both the Appeal and the Revision Petitions are allowed, the order of the District Forum is set aside and the complaint is dismissed. There will be no order as to costs. Appeal and Revision allowed.