

(2013) 05 NCDRC CK 0127

In the National Consumer Disputes Redressal Commission

Consumer Protection Council Tamilnadu

APPELLANT

Vs

MANAGING DIRECTOR , Regional Manager Maruti Udyog,
Chennai , Chairman, Maruti Udyog, Delhi

RESPONDENT

Date of Decision : 01-05-2013

Acts Referred:

Citation : 2013 0 NCDRC 313

Hon'ble Judges : V.B.GUPTA , Rekha Gupta J.

Advocate : S.Pushpavanam

Judgement

1. PETITIONERS /complainants have challenged impugned order dated 27.9.2010 passed by State Consumer Disputes Redressal Commission, Chennai (for short, "State Commission).

2. , PETITIONERS filed a complaint before District Consumer Disputes Redressal Forum, Tiruchi -I (for short, "District Forum ") praying for directions to the respondents/opposite parties to provide a new car to the second petitioner or else pay full refund of the money paid. In addition to pay sum of Rs.20,000/- for mental agony, to pay Rs.1,00,000/- towards punitive damage and Rs.500/- to each complainant, towards cost. The complaint was opposed by the respondents.

3. DISTRICT Forum vide order dated 25.6.2007 allowed the complaint.

4. BEING aggrieved by the order of District Forum, respondent no.1 filed appeal before the State Commission which allowed the same, vide impugned order. Hence, the present revision. Alognwith it, an application seeking condonation of delay of 26 days has also been filed.

5. WE have heard Shri S. Pushppavanam, Secretary of Petitioner No.1 and also on behalf of Petitioner no.2.

6. THOUGH petitioners in their application have stated that there is delay of 26 days but as per Office report there is delay of 124 days. It is contended by Petitioner No.1 that delay has occurred due to the fact that Petitioner No.2 had

some sinusitis problem and was under medical treatment for over a month and was incapacitated. Thus, delay is not willful. Petitioners have filed medical certificate also.

7. THE impugned order was passed on 27.9.2010 and copy of which was received by the petitioner on 9.12.2010. However, revision petition has been filed on 11.7.2011. Thus, there is delay of 124 days. Case of petitioners is that they received the certified copy of the impugned order on 15.3.2011. Petitioners have not stated as to by which mode they received this copy on 15.3.2011. However, as per endorsement made on the certified copy of the impugned order, it was delivered on 9.12.2010. So, this plea of the petitioners that certified copy of impugned order was received on 15.3.2011, is against the record.

8. NOW coming to the grounds for condonation of delay, the main ground is that petitioner no.2 had medical problem due to sinusitis. As such there was delay in filing the petition. Petitioner No.1 has been vigorously pursuing the complaint of petitioner no.2. There is no explanation as to why petitioner no.1 was not vigilant enough to file the revision petition before this Commission within the period of limitation. Moreover, as per medical certificate of Petitioner No.2, it is nowhere mentioned that Petitioner no.2 was confined to bed or was immobilized. It is well settled that "sufficient cause " for condoning the delay in each case is a question of fact. Under the Consumer Protection Act, 1986, a special period of limitation has been provided to ensure expeditious disposal of cases. Complaint has to be disposed of within 90 days from the date of filing where no expert evidence is required to be taken and within 150 days where expert evidence is required to be taken.

9. HON "ble Supreme Court in Anshul Aggarwal vs. New Okhla Industrial Development Authority -IV (2011) CPJ 63 (SC) has held that while deciding the application filed for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Act for filing appeals and revisions in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if the appeals and revisions which are highly belated are entertained. Relevant observations made by Apex Court read as under: "It is also apposite to observe that while deciding an application filed in such cases for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986 for filing appeals and revisions in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if this court was to entertain highly belated petitions filed against the orders of the consumer fora ".

10. HON "ble Apex Court also observed in case "State of Nagaland Vs. Lipokao and others reported in 2005(2) RCR (Criminal) 414 that; "Proof of sufficient cause is a condition precedent for exercise of discretion by the court in condonation of delay ".

Apex Court also in "D. Gopinathan Pillai Vs. State of Kerala and another, reported in (2007) 2 SCC, 322, held; "When mandatory provision is not complied and the delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic ground only. "

11. UNDER the circumstances, reasons given in the application are taken as inadequate and insufficient to condone the delay of 124 days. Ratio of the above mentioned cases fully applies to the facts and circumstances of the present case. Therefore, the grounds stated in the application cannot constitute sufficient cause so as to condone the delay in filing the revision petition.

12. ACCORDINGLY , we reject the application seeking condonation of delay. Consequently, we dismiss the present revision petition being barred by limitation with cost of Rs.5,000/- (Rupees Five Thousand only). Petitioners are directed to deposit the cost by way of demand draft in the name of "Consumer Welfare Fund " as per Rule 10A of the Consumer Protection Rules, 1987, within eight weeks from today. In case, petitioners fail to deposit the cost within the prescribed period, then they shall be liable to pay interest @ 9% p.a. till realization.

13. LIST for compliance on 5.7.2013.