

(2011) 03 NCDRC CK 0029

In the National Consumer Disputes Redressal Commission

Devendra Agarwal

APPELLANT

Vs

VLCC Curls and Curves India Ltd.

RESPONDENT

Date of Decision : 01-03-2011

Acts Referred:

Citation : 2011 0 NCDRC 92

Hon'ble Judges : Anupam Dasgupta J.

Final Decision : Appeal is dismissed

Judgement

1. I have heard the appellant in person and Mr. Mrinal Bharti, learned counsel for the respondent.

2. BY an order dated 5th May 2008 this appeal was dismissed for non-prosecution and default. Aggrieved by this, the appellant has filed a miscellaneous application No. 1 of 2011 for restoration on 3rd January 2011. In this application, the appellant has stated that he was absent on 5th May 2008 because he was attending on his blind father. Notably, no medical certificate supporting this claim that appellants father was completely blind and required constant attendance of the appellant has been filed with this application. The appellant has further stated in this application that he came to the Commissions office on 26th November 2010 to enquire about his appeal and learnt that the appeal had been dismissed by the order dated 5th May 2008 for non-prosecution. To explain this prolonged delay from May 2008 to November 2010, the appellant has stated that his only brother was suffering from kidney problem during this entire period and had to be treated at various hospitals away from Jaipur (place of residence of the appellant) because of which the appellant could not follow up his appeal. Here again, no documentary evidence of any kind has been filed in support of his claim. The application is also strongly opposed by the learned counsel for the respondent.

In view of the foregoing, the appellant/ applicant has failed to put forth any satisfactory cause with appropriate supporting evidence to justify the inordinate delay in filing this application for restoration of his appeal which was dismissed

for non-prosecution and in default.

3. EVEN then, I have considered the grounds set forth in the memorandum of appeal seeking to impugn the order dated 18th January 2008 of the Rajasthan State Consumer Disputes Redressal Commission, Jaipur (in short, the State Commission). By this order, the State Commission dismissed the complaint of the appellant. On careful perusal of the impugned order, I am of the considered view that the State Commission has diligently examined each of the allegations in the light of the evidence and documents produced on record and rightly held that the complainant was unable to establish any of his allegations of deficiency in service against the opposite party/ respondent. Thus, even on merits, the appeal deserves no consideration. In conclusion, the application for restoration of the appeal is dismissed, as a result of which, the appeal itself is deemed to have been dismissed. Even on merit, the appeal does not deserves any consideration.