
(2003) 07 NCDRC CK 0128

In the National Consumer Disputes Redressal Commission

DIRECTOR GENERAL, DEPARTMENT OF POST

APPELLANT

Vs

MRS. POONAM KUMARI

RESPONDENT

Date of Decision : 16-07-2003

Acts Referred:

Citation : 2004 1 CPJ 506

Hon'ble Judges : Lokeshwar Prasad , Rumnita Mittal , Mahesh Chandra J.

Final Decision : Appeal dismissed

Judgement

1. THE present appeal, filed by the appellant under Section 15 of the Consumer Protection Act, 1986 (hereinafter referred to as "the Act") is directed against order dated 20.11.2002, passed by District Forum), Kasturba Gandhi Marg, New Delhi in Complaint Case No. OC/2208/99 entitled Smt. Poonam Kumari v. THE Director General of Department of Post of India & Anr.

2. THE facts relevant for the disposal of the present appeal briefly stated are that the respondent Smt. Poonam Kumari had filed a complaint under Section 12 of the Act before the District Forum averring therein that her mother Smt. Ram Rati had opened a MIS account with respondent No. 2 (Post Master, Main Post Office, Khurja) and had deposited a sum of Rs. 48,000/- in the above said account. It was stated that the respondent Smt. Poonam Kumari was nominated as a "nominee" in respect of the above said account. It was stated that the mother of the respondent said Smt. Ram Rati expired on 26.1.1998 and on the basis of nomination, the respondent, after the death of her mother, became entitled to receive the above said amount. It was stated that the respondent vide her letter dated 17.3.1998 and 24.3.1998 informed the appellants about the demise of her mother and thereafter vide application dated 17.6.1998 submitted her claim to appellant No. 2. It was stated that appellant No. 2 informed the respondent regarding some stay order obtained from the Court of Civil Judge, Bulandshahr. It was stated that the stay order granted by Civil Judge, Bulandshahr was vacated and thereafter the respondent again requested appellant No. 2 vide letter dated 27.10.1998 to make the payment. THE grievance of the respondent,

in the complaint, filed by her before the District Forum in nutshell was that despite completing all the formalities, the payment which was legally due to her had been withheld for about two years and therefore the appellants were liable to pay interest for delayed period. The claim of the respondent in the District Forum was resisted by the appellant and in the reply/written version, filed on behalf of the appellants it was stated that the claim of the respondent was sanctioned on 24.7.1999 and after completing all the formalities a cheque of Rs. 63,080/- was sent to Asstt. Post Officer, Gandhi Nagar, Delhi along with letter dated 5.6.2000 for delivering the same to the respondent against proper receipt which amount had already been withdrawn by the respondent.

The learned District Forum vide impugned order has held that the payment in question had been delayed from 24.7.1999 i.e. the day of sanction to 5.6.2000 and has held that for the above delayed period, the appellants are liable to pay interest @ 9% p.a. The learned District Forum vide impugned order has awarded interest to the respondent at the above rate for the period from 24.7.1999 to 5.6.2000 on the sum of Rs. 63,080/- together with cost of Rs. 2,000/- to be paid by the appellant No. 2 to the respondent. No order against appellant No. 1 has been passed by the District Forum.

3. FEELING aggrieved, the present appeal has been preferred by the appellants under Section 15 of the Act. We have heard the learned Counsel for the appellants at length on the question of admission of the present appeal and have also carefully gone through the documents/material on record. In terms of the provision contained in Section 15 of the Act, a person, aggrieved by an order, made by the District Forum, can prefer an appeal against such order to the State Commission within a period of 30 days from the date of the order. However, proviso the Section 15 of the Act provides that the State Commission may entertain an appeal even after the expiry of the above said period of 30 days. If it is satisfied that there was "sufficient cause" for not filing the same within the above said period. The words "sufficient cause" occurring in proviso to Section 15 of the Act, are of utmost significance. As per settled law, culled out from various judicial decisions, the above expression "sufficient cause", though deserves to receive a liberal interpretation, yet, a just and equitable balance has to be maintained between the right secured by the respondent as a result of expiry of the prescribed period of limitation and the injustice of depriving the appellant of adjudication of his grievances on the merits of his appeal for causes beyond his reasonable control, which means, the cause is bona fide and beyond the control of the appellant. Though, no hard and fast line can be drawn as to what affords "sufficient cause" in a given case, yet, again, as per settled law, any cause which prevents a person from approaching the Court within time is "sufficient cause". In doing so, it is the test of a reasonable man in normal circumstances which has to be applied.

4. ADMITTEDLY, the present appeal has not been filed by the appellants within the prescribed period of 30 days because the order being impugned in the

present proceedings was passed by the learned District Forum on 20.11.2002 and the present appeal has been filed by the appellant on 5.7.2003. Therefore, the question requiring consideration at the very threshold is as to whether the appellants have shown sufficient cause for not filing the appeal in time within the meaning of proviso to section 15 of the Act. The appellants, along with the appeal have also filed an application, seeking condonation of delay, in filing the present appeal. The reasons for not filing the appeal in time have been stated in paras 3 and 4 of the above said application which read as under : "That the above complaint was finally heard and decided vide order dated 23.1.2003 whereby the learned District Forum directed the appellants to pay interest @ 9% p.a. to the respondent for the delayed period after 24.7.1999 till the realisation of the amount on 5.6.2000 along with costs of Rs. 2,000/-. That the certified copy of the order was received in the office of appellant No. 1 on 28.1.2003. Since, the appellant No. 1 was a proforma party and the matter relates to the appellant No. 2, the said copy was sent to the appellant No. 2 for taking necessary action therein. The said copy finally reached the office of appellant No. 2 on 5.2.2003 whereafter the same was placed before the competent authority and also for the advice of the Government Counsel. Upon receipt of the advice of the Government Counsel, it has been decided to file the present appeal before this Hon"ble Commission."

On a perusal of the contents of the above para it is apparent that certified true copy of the order being impugned in the present proceedings was received by the appellant on 28.1.2003 and if the period of limitation for filing the appeal is to be computed, as commencing from the date of communication of the order, as has been held by the Hon"ble Supreme Court in case Housing Board, Haryana v. Housing Board Colony Welfare Association & Ors. reported as III (1995) CPJ 28 (SC), the present appeal should have been filed by 28.2.2003. The same, as already stated, has been filed much beyond the prescribed period of limitation on 5.7.2003.

5. THE reasons assigned for not filing the present appeal in time virtually are no reasons in the eye of law. THE appellants have not cared to explain the delay after 5.2.2003. Only a bald statement has been made that copy of the impugned order was placed before the competent authority and also for the advice of the Government Counsel. No details whatsoever have been given as to on which date the copy of the impugned order was placed before the concerned authority and on which date record was made available to the Government Counsel and on which date his advice was received. THE delay in filing the appeal cannot be condoned as a matter of generosity. Proof of "sufficient cause" is a condition precedent for the exercise of such discretion by the appellate authority. In our above views, we stand fortified by a decision of the Hon"ble National Commission in case Vice-Chairman, Delhi Development Authority v. O.P. Gauba, reported as III (1995) CPJ 18 (NC)=1986-96 CONSUMER 2731 (NS).

6. IN the presence of the above facts and the position explained above in our

opinion, whatever liberal interpretation might be put on the words "sufficient cause" it would be impossible for us to hold that there was no negligence on the part of the appellants. IN our opinion, as a matter of fact, the appellants have miserably failed to show "sufficient cause" for condoning the delay in filing the present appeal and, therefore, the application seeking condonation of delay in filing the present appeal is hereby rejected. The present appeal, filed by the appellants besides being barred by limitation is also devoid of substance on merits because on the basis of material on record, it is not in dispute that the claim of the respondent was sanctioned on 24.7.1999 but the payment was made to the respondent by appellant No. 2 practically after one year on 5.6.2000. Again the reasons assigned for delay in making the payment virtually are no reasons and the poor consumer had to suffer due to the inaction/ deficiency in service on the part of the appellants. Therefore, on merits also no fault can be found with the finding of the learned District Forum which suffers from no infirmity so as to call for any interference by this Commission in exercise of its appellate powers.

Thus, viewed from all angles the present appeal, filed by the appellants, is devoid of substance. The same merits dismissal. Accordingly, the same is dismissed in limine with no order as to costs. Appeal dismissed.