(1994) 10 NCDRC CK 0048

In the National Consumer Disputes Redressal Commission

EISH MADHU TALWAR APPELLANT

Vs

Central Bank of India RESPONDENT

Date of Decision : 06-10-1994

Acts Referred:

Citation : 1995 1 CLT 620 : 1995 1 CPC 505 : 1995 1 CPJ 258

Hon'ble Judges : N.C.Sharma , J.P.Mathur J.

Advocate : Shiv Garg

Final Decision : Partly Allowed

Judgement

1. THE Complainant Eish Madhu Talwar had delivered to the Opposite Party a cheque No. 30051063 for 29 for collection from Barclays Bank, London and for being credited in his Credit Saving Account No. 7395 with the Opposite Party. This cheque was delivered on 7.8.91. Although the Complainant visited the Opposite Party Bank several times but he was only falsely assured that the receipt of the cheque would be realised soon. THE Complainant made a complaint to the Regional Manager of the Central Bank of India with a copy to the Reserve Bank of India on 27.4.92. THEreupon suddenly the Opposite Party sent a letter on 27.7.92 stating to the Complainant that Barclays Bank had desired a photo copy of the cheque or full particulars of the instrument namely; serial number, date of issue, name of the drawer and drawyee Bank to enable the Opposite Party to puruse the matter with Barclays Bank. THE Complainant has claimed a compensation of Rs. 1,03,015/- with interest at 18% p.a.

2. THE Opposite Party has filed a version in which it is admitted that the Complainant had delivered the above cheque of 29 for collection. According to the Opposite Party, it had sent the cheque to the Branch of the Central Bank of India at Sansar Chandra Road and that Branch sent the cheque for collection to London by registered post vide receipt No. 3974 dated 30.9.91. However, it appears to the Opposite Party that the cheque was lost during postal transit and did not reached London. THE Opposite Party sent reminder to Barclays Bank, but the later Bank informed that the cheque was not received and required a photo

copy of the cheque and the Complainant did not sent the photo copy of the cheque, its collection could not be realised. THE Opposite Party has also said that the Complainant is not a consumer as he has closed his account with the Opposite Party before this complaint was filed by him. It is said that there was no deficiency in service and Postal Department was a necessary party. It may be mentioned that appearance was put on behalf of the Complainant upto 24.9.93 hut thereafter the Complainant did not appear. The Opposite Party was given opportunity to file affidavits in evidence. On 27.4.94, Counsel for the Opposite Party stated that the Opposite Party does not want to give any further affidavit as the same has already been given alongwith the reply. We, therefore, heard the learned Counsel for the Opposite Party and perused the record.

It is not in dispute that the complainant had a saving bank account with the Opposite Party bearing No. 7395 and that on 7.8.91 he had given cheque No. 30051063 for 29 for collection from Barclays Bank, London. It is also not in dispute that the amount of his cheque was not credited in the account of the Complainant. It is the version of the Opposite Party that the Branch of the Central Bank of India, Sansar Chandra Road, had sent the cheque to London Bank on 30.8.91 vide postal receipt No. 3974 by registered post. The Opposite Party has not produced any postal receipt to show that it had even sent the cheque to London Bank for collection. It has also not produced any copy of the letter under which the said cheque was sent to barclays Bank for collection. No evidence whatsoever has been produced to show that the Barclays Bank had informed the Complainant that it had not received the cheque or had asked for a photo copy of the cheque. All these were material documents which were in possession of the Opposite Party, but has not been produced. Thus the Opposite Party entirely fail to prove the correctness of its version. The Complainant is quite right that he was only mislead by the Opposite Party and when he representated to the Regional Office, the Opposite Party sent letter dated 27.7.92 asking for a photocopy from the Complainant. Since the Opposite Party has totally fail to establish that it had sent the cheque in question for collection to London Bank or it had not reached at that Bank or further that the Barclays Bank had informed the Opposite Party that the cheque was not received and a photo copy may be sent to it. There was clear cut deficiency of service on the part of the Opposite Party and the Complainant is entitled to be compensated for the harassment caused to him. The amount of the cheque in Indian currency was Rs. 1,653/-. The Complainant is entitled to get this amount from the Opposite Party alongwith interest at 15% p.a. from 7.8.91 till payment. The Complainant will further get Rs. 5,000/- as compensation for undue harassment caused to him as well as for mental distress and agony and also for correspondence expenses.

3. WE, therefore, partly allow this complaint and direct the Opposite Party to pay an a amount of Rs. 1,653/- to the Complainant alongwith interest at 15% p.a. from 7.8.91 till payment. WE further directed to the Opposite Party to pay Rs. 5,000/- as compensation to the Complainant. Complaint partly allowed.

