

(2013) 04 NCDRC CK 0043

In the National Consumer Disputes Redressal Commission

GHANSHYAM

APPELLANT

Vs

M/S. Wipro Bio Med Limited , Proprietor Imperial Scientific
Stores, Bikaner, Rajasthan

RESPONDENT

Date of Decision : 30-04-2013

Acts Referred:

Citation : 2013 0 NCDRC 317

Hon'ble Judges : K.S.CHAUDHARI , B.C.Gupta J.

Advocate : KUMAR VIKRAM

Judgement

1. THIS revision petition has been filed under Section 21(b) of the Consumer Protection Act, 1986 against the order dated 21.09.2011 passed by the Rajasthan State Consumer Disputes Redressal Commission, Jaipur (hereinafter referred to as "State Commission ") in First Appeal No. 40 of 2011 titled as Ghanshyam Vs. M/s. Wipro Bio Med Limited & Ors., vide which the appeal against the order dated 09.04.2009 passed by the District Forum, Bikaner in complaint No. 101 of 2004 filed by the present petitioner was ordered to be dismissed. The District Forum vide the aforesaid order had dismissed the complaint against the respondent / opposite party.

2. THE brief facts of the case are that the petitioner / complainant filed complaint No. 101/2004 against the respondent dated 12.04.2004 under Section 12 of the Consumer Protection Act, 1986 saying that he purchased a Machine "Spirit Biochem Cell Counter and Semi Auto Analyzer PDL-95 (Photo meter) " for Rs. 9,18,020/- from the respondents. Soon after the purchase, the said products started giving problems which could not be resolved, despite repeated complaints, making it clear that these had manufacturing defects. The District Forum dismissed the complaint, holding that there was no deficiency in service, vide their order dated 09.04.2009. An appeal against the order of the District Forum was dismissed by the State Commission. It is against this order that the present petition has come up. At the time of hearing, the learned counsel for the petitioner was asked to explain the delay in filing the petition in question. As per

the office report, the impugned order was received by the petitioner on 21.09.2011 itself and the petition had been filed after a period of 387 days of the pronouncement of the order. After deducting the prescribed period of 90 days for filing the petition, there is a delay of 297 days in the case. The learned counsel invited our attention to the application for condonation of delay, in which it has been stated that the State Commission dismissed the appeal on 21.09.2011, but before the delivery of the said judgment, no date had been fixed and the petitioner did not have any notice about the pronouncement of the judgment. The copy of the judgment was also not sent to the petitioner. The petitioner visited the office of his counsel in the first week of September, 2012, but he failed to get any satisfactory answer. Even before September, 2012, he asked many a time about the fate of the case, but he could not get any information. The petitioner then visited the office of the State Commission and learnt from there that the order had been passed a long time ago. The petitioner collected the file from the previous counsel and then contacted the present counsel. The learned counsel stated that the delay should be condoned in the interest of justice, because the order passed by the State Commission was not a speaking order.

3. WE have examined the entire material on record and given a thoughtful consideration to the arguments advanced before us. A perusal of the copy of order in vernacular language attached with the petition, shows that the copy was made by the office of the State Commission on 21.09.2011 itself. Moreover, it is also clear from the order that Shri Bhanwar Singh, Advocate was present in the Court on behalf of the appellant / petitioner when the order, in question was pronounced. In view of these facts, the argument given by the petitioner that he had no knowledge of the impugned order, cannot be believed. There is therefore, no justification for condonation of delay and the petition is liable to be dismissed on this ground alone.

4. IT has been observed by the Hon "ble Apex Court in number of judgments passed recently that unless there are cogent / convincing reasons for the condonation of delay, the delay should not be condoned. Reference may be made to the order passed by the Apex Court in - Ansul Aggarwal Vs. New Okhla Industrial Development Authority, reported in 2012 (2) CPC 3 (SC). Based on the above discussion, this petition is ordered to be dismissed having been filed much beyond the prescribed period of limitation, with no order as to costs.