(2011) 07 NCDRC CK 0049

In the National Consumer Disputes Redressal Commission

Guru Dayal Kumar Sinha APPELLANT

Vs

MANAGER RESPONDENT

Date of Decision : 12-07-2011

Acts Referred:

Citation : 2011 0 NCDRC 413 : 2011 3 CPJ 231 : 2011 3 CPR 251

Hon'ble Judges : R.K.Batta , Vinay Kumar J.

Final Decision : Appeal dismissed

Judgement

1. THIS consumer complaint is filed by Dr. Guru Dayal Kumar Sinha, against the State Bank of India. At the stage of notice for admission hearing, a letter has been received from the complainant, seeking exemption from personal appearance along with a request that the matter may be decided on merits.

2. AS seen from the records, the complainant is an employee of the Health Department of the Government of Bihar. He was placed under suspension in 2004 and later reinstated into service in 2005. He has been pursuing the matter of arrears of pay with the State government. Some time in 2003, he took a loan from the OP/State Bank of India. On 19.2.2004, a legal notice was issued to him, by the Advocate of the Bank, on the subject of repayment of the loan. It was indicated that the loan was not being repaid as per agreed installment. He was therefore, asked to pay the entire balance of Rs 151059 within 15 days. AS per this notice, legal action for recovery was to be taken in the event of failure to pay. On the record there are copies of several letters written by the complainant to the Bank, before and after the legal notice, requesting them to stop recovery from his subsistence allowance and assuring that as soon as his arrears of salary and allowances are received from the government, the entire loan will be cleared. There is nothing to show what action has been taken by the OP/State Bank, on his request to suspend the recovery.

Finally, the Complainant appears to have written to OP/Bank on 07.02.2011. The contents of this letter are as follows:- "1. I informed the Bank regarding pendency of salary matter before Hon"ble High Court, Patna & my financial position dated 14.1.04 & 7.2.04. 2. In spite of submission of aforementioned representations to the Bank, Bank knowingly & willingly issued Legal Notice to me dated 19.2.04, thereby severely lowered my dignity & reputation. 3. I was suspended by the Govt. dated 20.09.04,thereby I made verbal plea many times to the Bank not to deduct loan amount from Subsistence Allowance but Bank did not heed my request & went on deducting loan amount from 20-9-04 to 31-8-05. 4. Hence, I filed written representation posted on 6.5.05 to the Bank against force full deduction of loan amount from my meager Subsistence Allowance by the Bank, but Bank again did not heed my request and still went on deducting loan amount forcefully from my Subsistence Allowance.

3. IN this way Bank deprived me from Right to live " a Constitutional fundamental right, enshrined in Art.21 of Constitution of INdia & willfully compelled me to starve against Right to Subsistence Allowance during suspension period. Since then I met several times to Bank authority, but did not receive any reply from the Bank.

4. BY date 14.12.10 I filed application seeking information regarding Account statement of my Saving Bank Account under R.T.I."05 & appeal by Date 19.1.11. But bank denied me the access of information of my account statement knowingly & willfully, hence resorted to gross deficiency in service by the Bank under Section 2(d),(o) of Consumer Protection Act, 1986. Dated 29.1.2011 State Bank of India sent Loan Recovery Agent to my clinic who threatened me to deposit entire amount of loan at once or face dire consequences like recovery, arresting & jail in presence of staff & patients which is taped in my mobile & representation for institution of F.I.R. has been filed before S.I. of Sonbarsa Police Station & S.P. of Sitamarhi by date 1.2.2011.

5. IN this way Bank again severely lowered my dignity & reputation.

6. LEFT with no option, I am filing consumer complaint case before National Consumer Disputes Redressal Commission, New Delhi for gross & persistent violation of Consumer Protection Act,1986 by State Bank of India, Dumra Branch, Sitamarhi since 2004 to uptill now." From a plain reading of the above, it is clear that the fact of availment of loan is not denied by the Complainant. The default in repayment is also not denied. In such a situation neither the legal notice issued on behalf of the Bank nor non-acceptance of the Complainant"s request to suspend the recovery against the balance of loan amount can be considered a deficiency in service on the part of the Bank. In our view, no case has been made out for any proceedings under the Consumer Protection Act, 1986. The complaint is accordingly dismissed with no order as to costs.

