
(2000) 02 NCDRC CK 0017

In the National Consumer Disputes Redressal Commission

HAZARI LAL

APPELLANT

Vs

State Bank of India

RESPONDENT

Date of Decision : 04-02-2000

Acts Referred:

Citation : 2000 2 CPJ 189

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against the judgment and order dated 27.8.1999 passed by District Consumer Forum, Siddharth Nagar in Complaint Case No. 26/1999. The facts of the case stated in brief are that the complainant claimed interest of Rs. 5,000/- for three years and Rs. 5,000/- as compensation against the opposite party. It is alleged that the complainant got a bank draft prepared for Rs. 5,000/- on 6.4.1995 in favour of Zenith Sports Company, Calcutta for purchase of shares. THIS draft was handed over to State Bank of India at Kanpur for sending it to the Company at Calcutta. According to the complainant the Kanpur branch of State Bank of India did not send this application to the Company as its business has been closed. It is further alleged that the State Bank of India should have immediately returned the amount of the draft to the complainant. On 24th of May, 1999 complainant applied for return of the amount of Rs. 5,000/- which was returned to him. He claimed interest on the above amount at the rate of 20% per annum for the period for which State Bank of India detained. He also claimed compensation of Rs. 5,000/-.

2. OPPOSITE party No. 1, State Bank of India, Kanpur Branch filed separate statement and opposite party No. 2 State Bank of India filed another written statement. OPPOSITE party No. 2 admitted that State Bank of India, Kanpur, is their branch at Kanpur. It was further admitted that a draft for Rs. 5,000/- was made as alleged by the complainant. The payment of this draft was to be made by the Kanpur Branch. Sri Ashok Kumar had intimated opposite party No. 2 that the bank draft has been lost and a new duplicate draft be prepared and handed

over to him. On the same day, i.e. 1.6.1998 duplicate draft was prepared and was given to opposite party No. 2. OPPOSITE party No. 2 has alleged that complainant Ashok Kumar had on 4.6.1998 applied for cancellation of duplicate draft and for payment of Rs. 5,000/- to him. On 9.6.1998 the payment was made to him. There was no deficiency in service. It is further alleged that Complaint Case No. 72/1996 was filed by Sri Hazari Lal on the basis of same facts which was dismissed on 27.1.1998 and hence this suit is not maintainable. Opposite party No. 1 has also alleged that M/s. Zenith Sports Company had nominated it as a banker but by the time several applications were received from various persons for allotment of shares, the Company had closed its business. The amount of those persons was returned to them. Complainant Hazari Lal had not made any application or deposited money for allotment of shares and hence the Bank was not at all liable to return the amount to Hazari Lal. Sri Hazari Lal by his letter applied for return of the amount. Then he was informed by letters dated 22.4.1996 and 23.5.1996 that he should get in touch with the Kanpur Branch for return of the amount as the complainant is not its consumer. It is further alleged that the previous complaint filed with respect to the return of the amount of this draft has already been dismissed by the District Forum and hence this complaint is not maintainable.

The learned District Forum, after considering the case of the parties, dismissed the complaint.

3. AGGRIEVED against this order of the learned District Forum, the complainant has come in appeal and has challenged the correctness of the order. We have heard the complainant who was present in person. None was present for the other side as no notice was issued to the opposite party.

4. IT may be noted that previously a complaint was filed in the District Forum bearing Complaint Case No. 72/1996 by Hazarilal. The learned District Forum has come to the conclusion in the previous complaint, the case was same as has been taken in the present complaint. IT was held by the learned District Forum that the draft was got prepared by one Sri Ashok Kumar, s/o Sri Hazarilal who had deposited the amount. The complaint of Hazari Lal was dismissed on this ground that the draft was not got prepared by him. The learned District Forum has further held that in the present complaint case, the name of Hazari Lal and Ashok Kumar were typed but in the end the name of Ashok Kumar which was typed was scored off and the name of Sri Hazari Lal was written by ink. The signature of Hazari Lal was noted on this paper. The complaint did not bear the signature of Sri Ashok Kumar. Learned District Forum came to the conclusion that the complaint could not be filed by Sri Ashok Kumar. This complaint has also been filed by Hazari Lal who had earlier filed the complaint. Hence this complaint is not maintainable. We agree with the findings of learned District Forum that once Hazari Lal had already filed a complaint with respect to the same cause of action, no other complaint could be entertained and is, therefore, barred by principles of res judicata.

5. THE learned District Forum further came to the conclusion that when intimation was sent to the Bank that the original bank draft has been lost, a duplicate was prepared. That duplicate draft was later on got cancelled and its payment was received. THE entire transaction took within 10 days. Hence there was no deficiency in service. This finding of the learned District Forum is held to be perfectly correct and is barred on the material on record. Thus on this basis also there was no deficiency in service on the part of the Kanpur branch of State Bank of India. It is not liable to pay any damages or compensation to the claimant.

6. THE result is that the appeal is liable to be dismissed as the order and judgment passed by the learned District Forum are perfectly justified on the facts of the case. Order The appeal is dismissed. The judgment and order of the learned District Forum are confirmed. There will be no order as to the cost. Let copy be made available to the parties as per rules. Appeal dismissed.