
(2012) 05 NCDRC CK 0046

In the National Consumer Disputes Redressal Commission

Hubert J. Dsouza

APPELLANT

Vs

CORPORATION BANK

RESPONDENT

Date of Decision : 08-05-2012

Acts Referred:

Citation : 2012 0 NCDRC 791 : 2012 3 CPJ 93

Hon'ble Judges : R.C.JAIN , S.K.NAIK J.

Final Decision : Petition dismissed

Judgement

1. ALLEGING deficiency in service and adoption of unfair trade practice by the opposite party/Bank, the above named complainant has filed the present complaint claiming a sum of Rs. 20 lacs along with interest @ 18% per annum from 17.4.1996 i.e. the date on which the initial letter was issued by the opposite party/Bank in favour of the complainant.

2. IN nutshell the complainant 's case is that he being a Non Resident Indian held an account NRE/NRNR with the opposite party/Bank since 1989. In the year 1997, the complainant had deposited a sum of Rs. 80,00,000 (Rupees eighty lacs) in his account with the opposite party/Bank. Opposite party No. 3 is stated to be a partnership firm engaged in the business of construction and Mr. P.S. Rao being one of its partners. According to the complainant, in February, 1996, during one of his visits to the Bank, opposite party No. 2 i.e. Corporation Bank, Chembur Branch, the Manager of the Bank Mr. Ambrish Angiras introduced Mr. P.S. Rao, partner of opposite party No. 3 to the complainant as a flourishing businessman and sought the indulgence of the complainant to extend the facility of a soft loan to opposite party No. 3/M/s. Rao Constructions for a period of three months against the Bank standing surety against a post-dated cheque issued by opposite party No. 3 and Manager of the Bank giving a letter of guarantee to honour the said cheque when presented for payment. Complainant being allured with the said promises/assurances, paid the amount to opposite party No. 3 on 17.4.1996, O.P. No. 3 issued a post-dated cheque bearing No. 929131 dated 17.7.1996 in the sum of Rs. 20 lacs drawn in favour of opposite party No. 3 on

the Manager of opposite party No. 2 issuing a Bank Guarantee dated 17.4.1996 confirming and guaranteeing that the said cheque would be honoured for payment when presented. The said guarantee was given by the Branch Manager in his official capacity on the letter head of the opposite party No. 2 and bearing the rubber stamp impression of the Bank below the signatures of the Manager. On 16.7.1996, a day before the date of repayment Mr. Ambrish Angiras, Branch Manager of opposite party No. 2 called upon the complainant and requested him not to present the cheque dated 17.7.1996 for payment and handed over to him another post-dated cheque bearing No. 217401 dated 17.10.1996 in the sum of Rs. 20,00,000 backed by a fresh bank guarantee issued by Branch Manager of opposite party No. 2 on the letter head of the bank bearing the stamp of the bank. Complainant became assured about the repayment of the loan amount by 17.10.1996 and agreed to the suggestion. Once again the Branch Manager of opposite party No. 2 persuaded the complainant to extend the loan to opposite party No. 3 by another three months and a fresh post-dated cheque was issued assuring the repayment of loan by 15.4.1997. The said cheque was presented for payment on 10.4.1997 but in spite of the surety/bank guarantee given by the Branch Manager of opposite party No. 2, the cheque was returned unpaid with the remarks "Insufficient Funds "vide a Memo dated 10.4.1997. Complainant felt cheated by the opposite parties and despite contacting the opposite party No. 3, it failed to repay the amount of loan and bank also failed to make the payment. After issuing the legal notice, the complaint was filed as according to the complainant by not honouring its commitment under surety/bank guarantee issued by Branch Manager on behalf of opposite party No. 2/Bank, the opposite party No. 3 having not paid the amount, the Bank committed deficiency in service making them liable to indemnify the complainant for the loss occasioned to him.

3. AFTER being noticed on the complaint, the opposite party No. 1 and 2/Bank contested the complaint by filing a written version. O.P. No. 3/Rao Construction Company, remained ex parte despite service of the notice. In the written version filed on behalf of the Bank, several objections were taken about the maintainability of the complaint as also the complaint being barred by limitation besides responding to the various allegations made by the complainant in his complaint. Ignorance was pleaded about the transaction, which the Branch Manager of opposite party No. 2 had with the complainant or the complainant had with him and Mr. Rao of opposite party No. 3. The main plank of defence of the opposite party/Bank being that it has not committed any act of deficiency or adopted any unfair trade practice and is not liable to indemnify the complainant to the extent of the amount claimed or any other amount because the Bank guarantee purportedly given by the Manager of the Bank was unauthorized as the bank had not authorized any Manager to give such a bank guarantee. The bank guarantees furnished by the bank Manager was not in conformity with the RBI guidelines and therefore it cannot be termed as Bank guarantee in that sense. It is pleaded that the bank is not responsible or liable for any

unauthorized or personal act of the Branch Manager.

4. IN the rejoinder, the complainant has controverted the objections and pleas raised in the written version and has generally reiterated the averments and allegations made in the complaint. It is pertinent to note that the complaint was earlier decided by this Commission vide an order dated 15.12.2000. By the said order the Commission dismissed the complaint primarily on the ground that the complaint was barred by limitation by observing as under: "The dispute in this case really centres round dishonouring of cheque dated 17.10.1996, which according to the complainant was dishonoured ultimately when it was presented for payment on 10.4.1999. The notice of the complaint was served upon the Bank on 3.1.2000. There is no explanation for the gross delay in presenting the complaint. Moreover, it has not been explained why, for the dishonouring of the cheque, a suit under Order 37 or criminal case was not instituted against M/s. Rao Constructions. This complaint is grossly delayed and time barred. No explanation has been given for the delay. "

It is pertinent to note that besides arriving at the said findings, the Commission also made certain observations in regard to not impleading the Branch Manager as a party to the complaint: "There are personal allegations against the then Branch Manager including the allegation that the Manager personally went to the house of the complainant for inducing the complainant not to present the cheque for payment. If the Bank Manager did any such-thing, it will be not in his capacity as Manager of the Bank, but in some other capacity. In any event, he should not personally meet a party. In the light of the above discussion, the Original Petition is dismissed. No costs. "

5. AGGRIEVED by the said order of this Commission, the complainant filed a Civil Appeal No. 2482 of 2001 in the Hon "ble Supreme Court. The said appeal was decided by the Hon "ble Supreme Court on 21.1.2009, thereby setting aside the order dated 15.12.2000 passed by this Commission and remitting the complaint to this Commission for deciding the complaint after affording opportunity of hearing to the parties including the opportunity to adduce evidence by observing as under: "Heard learned Counsel for the parties. By the impugned order, the National Consumer Disputes Redressal Commission (for short, "The National Commission ") dismissed the complaint filed by the appellant, in effect and substance, on the ground that the same was barred by limitation. A perusal of the complaint and the documents filed by the appellant shows that Respondent No. 3-M/s. Rao Constructions gave a post-dated cheque bearing No. 929131 dated 17th October, 1996, to the appellant on 17th April, 1996 for repayment of the loan. The Manager of Chembur Branch of the Bank guaranteed encashment of the cheque. However, on 16th July, 1996, that is a day before the due date of payment, the Branch Manager asked the appellant not to present the cheque. On the next day, cheque No. 929131 was taken from the appellant and another cheque bearing No. 217401 dated 17th October, 1996 was issued for Rupees twenty lakh. The bank gave fresh guarantee to the appellant that the cheque will

be honoured on its presentation. The appellant presented the cheque on 10th April, 1997, for encashment but it was returned on the same day with the remark "Insufficient funds ". The appellant represented to the bank for payment of Rupees twenty lakh by relying upon the guarantee given on 17th July, 1996. The Chief Manager of the Bank sent communications dated November 16, 1998 and February 5, 1999 and assured the appellant that the matter is being looked into and they will get back to him within few days. After fifteen days, the Chief Manager vide his letter dated 20th February, 1999 denied the liability of the Bank to pay the amount of the cheque. Thereupon, the appellant filed complaint before the National Commission on 18th October, 1999, which, as mentioned above, was dismissed as barred by time. From the facts narrated above, it is clear that cause of action to file the complaint had arisen on receipt of communication dated 20th February, 1999, by which the bank denied its liability to pay the amount of cheque inspite of the fact that the payment of the said sum was guaranteed. Therefore, the complaint filed on 18th October, 1999 was well within limitation and the National Commission committed serious error by dismissing the complaint on the ground that the same was barred by limitation.

Accordingly, the appeal is allowed, impugned order is set aside and the matter is remitted to the National Commission which shall now dispose of the complaint in accordance with law after giving opportunity of hearing to the parties, which would obviously include opportunity to adduce evidence. No costs. "

6. AFTER remand of the matter pursuant to the order of Supreme Court, parties filed their evidence, which is mostly documentary, besides filing their supporting affidavits. We have perused the same and have heard Mr. Siddhartha Shankar Ray, Advocate, learned Counsel for the complainant and Mr. Anshu Mahajan, Advocate, learned Counsel for O.P. Nos. 1 and 2 but had not the advantage of hearing the say of O.P. No. 3, who remained ex parte throughout the proceedings. Going by the undisputed factual position in this case and cogent material brought on record in the shape of post-dated cheque etc., and the endorsement of the Bank with regard to the return of the cheque unpaid, the complaint deserves to be allowed straightaway against O.P. No. 3. However, what further compensation can be legitimately awarded to the complainant shall be discussed at the proper stage in this order.

7. THIS takes us to the real controversy as to whether the opposite party/Bank has committed any deficiency in service by not making the payment of the amount of Rs. 20.00 lacs on presentation of the cheque despite the bank having given guarantee that when presented, the cheque will be passed and payment will be made. According to the Counsel for the complainant, but for the guarantee given by the Manager on the letter head of the Bank, the complainant could not have parted with the money to opposite party No. 3/Rao Constructions. Before we proceed, we would like to extract here the contents of the Guarantees dated 17.4.1996 and 17.7.1996 as under: Corporation Bank (Wholly owned by the Govt. of India) Opp. M Ward, Municipal Office, 1st Road, Chembur,

Bombay-400 071 Dated: 17.4.1996 This is to certify that the following cheque when presented for payment will be honoured. Cheque Dated Amt. 929131 17.7.1996 20,00,000 For Corporation Bank Sd/- (Ambrish Angiras) Manager With Rubber Stamp impression " "Corporation Bank (Wholly owned by the Govt. of India) Opp. M Ward, Municipal Office, 1st Road, Chembur, Bombay - 400 071 Dated: 17.7.1996 This is to certify that cheque No. 217401 dated 17.10.1996 of Rao Constructions for Rs. 20 lacs will be passed when presented for payment. For Corporation Bank Sd/- (Ambrish Angiras) Manager With Rubber Stamp impression "

8. IT is not disputed from the side of the opposite party/Bank that the guarantees in the above noted manner were actually given by the Branch Manager, Mr. Ambrish Angiras. It is also not disputed that the cheque dated 17.10.1996 issued by the O.P. No. 3 was dishonoured and payment not made for the reasons "Funds insufficient ". It is however, strongly contended by the Counsel for the opposite party/Bank that despite the above noted factual position, the bank cannot be held guilty of any deficiency in service on its part and therefore no liability can be enfastened on the Bank for the payment of the amount of cheque or any other compensation. The contention is based on twin submissions. The first and foremost being that the said guarantee was given by the above named Manager without any authority from the bank and without following the due procedure prescribed in that behalf. It is submitted that the Manager will be deemed to have committed the said unauthorized act in his personal capacity, for which the bank cannot be held liable. In this connection, learned Counsel for the opposite party/Bank has invited our attention to the Manual of instructions issued by the Department of Banking Operations and Developments and Department of Banking Supervision and Industrial and Export Credit Department of the Reserve Bank of India. The said Manual lays down certain guidelines in regard to issue of Bank Guarantees in favour of financial institutions and other banks etc. Attention is then invited to the Delegation of Lending Powers issued by the opposite party/Bank. Reference is also made to a Circular dated 16.3.1992 issued by the opposite party No. 3 to the Banks laying down the detailed procedure and manner for issuing the bank guarantees. The said circular contains the following instructions: "Introduction Of Security Numbered Covering Letter For Bank Guarantees 1.0 Branches are at present issuing Bank Guarantees on Non-Judicial stamp paper of requisite value, without any covering letter addressed to beneficiary. With a view to exercising effective control and proper check on the issuance of Bank Guarantees, it is now proposed to introduce serially numbered covering letter for all Bank Guarantees. This covering letter (specimen enclosed) addressed to the beneficiary will contain the address of the Controlling Office of the Bank for obtaining confirmation if desired by the beneficiary. It will be printed on security paper with pre-printed serial numbers. It will also indicate the names of the two authorized officials who have signed the Guarantee on behalf of the Bank. 2.0 The Bank Guarantee will continue to be signed invariably by two authorized officials as hitherto. 3.0 The

covering letter to the Bank Guarantee is required to be prepared in quadruplicate - (i) Original -to the beneficiary, (ii) Second and third copies -to the Regional Office, (to the Asstt. General Manager, BPDD, HO, in case of VLBs in D.K. Region), (iii) Fourth copy -to be retained as Office copy As the objective is to ensure proper control and check over the issuance of the Bank Guarantees, no Bank Guarantee should be issued without a covering letter. 4.0 The Controlling Office is required to send a confirmatory copy of the covering letter to the Bank Guarantee, if so desired by the beneficiary. 5.0 The covering letter of security numbered forms for Bank Guarantees should be treated as security item. The stock received from our Printing and Stationery Section and the forms used at branches from time-to-time should properly be accounted for in the Stock Register -Book No. 2 (New) as per prescribed procedure for security items. 6.0 Branches may after carefully assessing their requirements, place their indents for the covering letters with our Printing and Stationery Section and implement the new procedure as soon as they receive the stock of the above forms from them. " Along with the said instructions, format of the bank guarantee have been annexed.

Referring to Clause 2.0 of the said circular, Counsel for the opposite party contended that one of the requirements was that bank guarantee will be signed invariably by two authorized officials. He submits that since the bank guarantee was not issued in the prescribed format and it was not signed by two authorized officials, the purported bank guarantees dated 17.4.1996 and 17.7.1996 have been signed by the Manager of the Bank alone, the same cannot be deemed to be the bank guarantees within the meaning of the term. It is true that the above noted guarantees/promises given by the Branch Manager are neither in the prescribed format nor signed by two authorized officials as envisaged in the above noted clauses and in that view of the matter, it can be said that they do not meet the requirement of bank guarantee given by the Bank. However, this by no means will diminish the intrinsic value of the said documents as bank guarantees or atleast a promise on behalf of the bank to make the payment of the cheque in question. By issuing these documents, the Manager will be deemed to have bound the bank for honouring the cheque and making its payment. We say so because the opposite party/Bank on receipt of a notice from the complainant had initiated disciplinary action against Mr. Ambrish Angiras, Branch Manager. One of the Articles of Charges levelled against the above named Manager were as under: "Articles of Charge levelled against Sri Ambrish R. Angiras, E-2430, Senior Manager, Regional Office, Western Region-I, Mumbai You were working as Senior Manager at Mumbai-Chembur Branch of the Bank between the period 8.5.1995 and 2.5.1998. It is reported against you as follows: That Sri Hubert D "Souza, the constituent of Branch are maintaining NPE/NRHR accounts of the Branch since 1989 that M/s. Rao Constructions, is also a constituent of the Branch enjoying CCSDL limit of the Branch. That in gross abuse of your official position and without any authority whatsoever, on 17.4.1996 you issued a certificate in Bank "s letter head to Shri Hubert D

"Souza, understanding therein to honour a post dated cheque bearing No. 929131 dated 17.7.1996 for Rs. 20.00 lakh issued by M/s. Rao Constructions in favour of Sri Hubert D "Souza. That since the said cheque dated 17.7.1996 for Rs. 20.00 lakh could not be debited to the account of M/s. Rao Constructions due to insufficiency of balance in the account. On 17.7.1996, in gross abuse of your official position and without any authority whatsoever, you issues another certificate in Bank "s letter head undertaking (herein to honour a post dated cheque bearing No. 217401 dated 17.10.1996 for Rs. 20.00 lakh issued by M/s. Rao Constructions in favour of Sri Hubert D "Souza, in lieu of the earlier cheque dated 17.7.1996. That subsequently on 10.4.1999, the cheque bearing No. 217401 dated 17.10.1996 was dishonoured by the Branch with the reason insufficient funds. That Sri Hubert D "Souza, vide his letter dated 16.11.1998 has preferred a claim against the Bank in the matter for payment of the aforesaid amount of Rs. 20.00 lakh along with interest, contending that the certificate issued by you amounts to surety and as such the Bank is liable to pay the amount. That the acts and omissions on your part as aforesaid are likely to cause financial loss to the Bank. The acts omissions on your part as aforesaid, more fully described in the statement of imputations of misconduct. If proved, would tantamount to failure on your part to take an all times all possible steps to ensure and protect the interest of the Bank and to discharge your duties with utmost integrity, honesty, devotion and diligence and acting in a manner unbecoming of a Bank Officer, thereby violating Regulations 3(1) r/w Regulation 24 of Corporation Bank Officers Employees " (Conduct) Regulations, 1982. "

9. IN the Statement of misconduct in support of the Article of charges levelled against the said officials, the bank inter alia stated as under: "That on 17.4.1996, Mr. Hubert D "Souza raised two loans for Rs. 14.00 lakh and Rs. 6.00 lakh of the Branch against the security of his term deposits and after crediting the amount to his NRO SB Account, he issued a cheque of Rs. 20.00 lakh to M/s. Rao Constructions. That Sri P.S. Rao of M/s. Rao Constructions issued a post-dated cheque bearing No. 929131 dated 17.7.1996 for Rs. 20.00 lakh favouring Mr. Hubert D "Souza towards repayment of the said amount. That on the same day i.e., on 17.4.1996, in gross abuse of your official position and in violation of the laid down guidelines, you issued a certificate to Mr. Hubert D "Souza, in Bank "s letter head, undertaking to honour the aforesaid post-dated cheque No. 929131 dated 17.7.1996 for Rs. 20.00 lakh issued by M/s. Rao Constructions in favour of Mr. D "Souza. That you issued the said certificate, although the Bank, in terms of HO Circular No. 27.94 dated 1.2.1994 had advised all the branches/offices of the Bank not to resort to issue of such certificates. That since the aforesaid cheque dated 17.7.1996 for Rs. 20.00 lakh could not be debited to the accused of the Rao Constructions due to insufficiency of balance in the said account, on 17.7.1996, in gross abuse of our official position and in violation of the laid down guidelines, you issued another certificate to Mr. Hubert D "Souza, in Bank "s letter head undertaking to honour another post-dated cheque bearing No. 217401 dated 17.10.1996 for Rs. 20.00 lakh in lieu of the earlier cheque

dated 17.7.1996 issued by M/s. Rao Constructions in favour of Mr. Hubert D "Souza. That the said cheque also could not be debited to the account of M/s. Rao Constructions due to insufficiency of balance in the account. That subsequently on 10.4.1997 the cheque bearing No. 217401 dated 17.10.1996 was dishonoured by the Branch with the reason "insufficient funds ". That in terms of letter dated 16.11.1998, Mr. Hubert D "Souza, has preferred a claim against the Bank in the matter for payment of the aforesaid amount of Rs. 20.00 lakh along with interest, contending that the certificate issued by you amounts to surety and as such the Bank is liable to pay the amount. That thus, in gross abuse of your official position and in violation of the laid down guidelines, you issued certificate on two different dates, undertaking to honour a postdated cheque issued by a constituent of the Bank in favour of another constituent and that the acts and omissions on your part as aforesaid, are likely to cause financial loss to the Bank. By your aforesaid acts and omission, you have violated Regulation 3(1) R/W regulations 24 of Corporation Bank Officers Employees (Conduct) Regulations, 1982. "

10. AS a result of the disciplinary inquiry conducted, the opposite party/Bank held the above named Manager guilty of the Article of Charges levelled against him and a penalty of reducing the basic pay of the officer from his then pay of Rs. 9,700 per month to Rs. 8,970 per month with cumulative effect was passed, which was however, subject to the stipulation that the officer will continue to earn annual increment and next annual increment will be released on completion of one year of service from the date of the said order imposing the penalty. Certain observations made by the General Manager and Disciplinary Authority are relevant and we would like to extract the same herein below: "In view of the foregoing observations, I concur with the findings of the Inquiry Officer and hold the officer guilty of the allegations/charges levelled against him in terms of the letter of charge dated 10.12.1999. The acts and omission of which the officer is found guilty tantamount to failure on his part to take at all times all possible steps to ensure and protect the interest of the Bank and to discharge his duties with at most integrity, honesty, devotion and diligence and acting in a manner unbecoming of an Officer employee thereby violating Regulation 3(1) r/w Regulation 24 of Corporation Bank Officer Employees " (Conduct) Regulation, 1982. This misconduct committed by the Officer is serious and involves abuse of power. Moreover the acts and omissions on the part of the Officer has also exposed the Bank to huge financial loss and other risk and consequences. Having regard to the above, I am the view that imposition of major penalty of reduction of basic pay of the Officer by three stages with cumulative effect as envisaged in Regulation 4(f) of Corporation Bank Officer Employees " (Discipline and Appeal Regulations, 1982), is the appropriate penalty in the cases, it is observed from the service records of the Officer that he is presently placed in the Officer cadre in middle Management Grade/Scale drawing maximum basic pay at Rs. 9,700 p.m. in the time scale of pay apart from drawing stagnation increments. In that view of the matter, the basic pay of the Officer be and is hereby reduced from

the present Rs. 9,700 p.m. to Rs. 8,970 p.m. with cumulative effect. However, the Officer will continue to earn annual increments and the next annual increment of the Officer be released on completion of one year of service from the date of this order and accordingly, the anniversary date of this increment also be changed. "

From a perusal of the above, it is apparent that even in the reckoning of the Disciplinary Authority of the Bank, the above named official has exposed the bank to the huge financial loss, and risks and consequences.

11. IF the opposite party/Bank really felt that the above action of the Branch Manager in issuing the guarantee/certificate was not taken in his official capacity, or was taken in his personal capacity, there was no question of the bank having initiated any disciplinary action against him. It was for the reasons that the bank knew that they will be exposed to financial liability due to the issuance of the above referred guarantees/certificate that disciplinary action was taken and penalty was imposed on the official holding him guilty of various misconducts. This means that the Bank had assumed the responsibility of the acts done by the said Officer in his official capacity vis-a-vis the complainant. We must therefore hold that the said bank guarantees/certificates were issued by the Manager for and on behalf of the bank which is squarely binding on the bank as well. We say so because the juristic person like bank being impersonal institutions act through their officers and functionaries and any act done by such officers and functionaries in the discharge of their official duties will be deemed to have been done for and on behalf of the institution.

12. GOING by the entirety of the facts and circumstances of the case, we have no hesitation that the opposite party/Bank has committed deficiency in service by not honouring the check in the sum of Rs. 20.00 lakh issued in favour of the complainant, despite a specific guarantee/assurance given by the bank. Since the complainant has been deprived of the amount of the cheque, the opposite party/Bank is liable to reinstate the complainant by paying compensation equivalent to the amount of cheque. Counsel for the opposite party/Bank then contended that even if the bank is found wanting in some respects, in absence of the Branch Manager being a party in the present proceedings, no liability can be enfastened on the opposite party/Bank. In support of his contention, he placed heavy reliance upon a decision of the Hon "ble Supreme Court in the case *Mittal Polypacks (P) Ltd. v. State of Jharkhand*, (2005) 11 SCC 501, wherein the facts and circumstances of the case, the Hon "ble Supreme Court has held as under: "14. Learned Counsel appearing on behalf of the respondents has stated that apart from the fact that the decision of the High Court was entirely correct, this appeal should not be entertained since the appellant had based its case on factual averments relating to the officers of the State of Bihar. Complaints have been levelled as to their inaction, etc. None of these officers of the State of Bihar have been made parties. The State of Jharkhand could not be held responsible for such inactivity. We have been referred to the provisions of Section 41(2) of

the Bihar Reorganisation Act, 2000 in this connection. It is also submitted that the appellant has no right to claim exemption. It was open to the State of Jharkhand, assuming it to be properly arraigned in this appeal, to provide for an exemption on the basis of certain conditions. Relying on the authority of this Court in *State Level Committee v. Morgardshammar India Ltd.* It is submitted that this Court would not ignore these conditions and extend the exemptions. It is stated that in any event a person invoking an exception or an exemption provision must strictly see that the case falls within the plain language of the exemption and in case of doubt it must be resolved against the appellant. It is submitted that in this case, the language of the two notifications was plain and that in any event even if there were any doubt regarding the time-limit within which the exemption should be claimed, the notification would have to be construed in the light of the policy which clearly demarcated the cut-off date. "

13. IN our view, the said legal position cannot be squarely applied to the facts and circumstances of the present case. In any case, it is equally settled position that an employer is vicariously liable for the acts of commission and omission committed by its employees. Reference is also made to certain observations made by this Commission in its order dated 15th December, 2000. The said observations were made by the Commission on prima facie view of the matter at the threshold going by the defence plea of the opposite party that the allegations made in the complaint were against the Branch Manager in his personal capacity but we have found that the acts done by the Branch Manager were done by him in his official capacity as the Branch Manager. We are, therefore, of the view that the Bank is liable to compensate the complainant even in absence of the Branch Manager as a party to the complaint. We may however, observe that the Bank will be free to take recourse to its legal remedies against the Branch Manager for the loss occasioned to them.

14. IN the result the complaint is partly allowed and opposite parties are jointly and severally directed to pay a sum of Rs. 20.00 lacs to the complainant. Besides the said amount, opposite party No. 1 and 2 are also directed to pay interest @ 6% per annum with effect from the date of the complaint till payment. The amount shall be paid within eight weeks, failing which the rate of interest shall stand enhanced to 9% per annum. Similarly opposite party No. 3 is directed to pay interest @ 12% per annum to the complainant with effect from 17.4.1996 till the date of payment. The amount shall be paid within eight weeks, failing which the rate of interest shall stand enhanced to 15% per annum. Opposite Party Nos. 1 and 2 will be free to work out their remedy against the Manager for any loss incurred by them under this award. Parties to bear their respective costs. Petition dismissed.