(1994) 05 NCDRC CK 0036

In the National Consumer Disputes Redressal Commission

INDIAN BANK'S ASSOCIATION APPELLANT

Vs

ARCHANA KAMATH RESPONDENT

Date of Decision : 17-05-1994

Acts Referred:

Citation : 1994 0 NCDRC 121 : 1994 2 CPC 93 : 1994 2 CTJ 695 : 1995 1 CLT 588 : 1995 1 CPJ 75

Hon'ble Judges : V.BALAKRISHNA ERADI , Y.KRISHAN , B.S.YADAV J.

Advocate : LALIT BHASIN , BHASIN , M.S.KAMATH , PRADEEP DEWAN , MANOJ SHARMA

Judgement

1. THESE are two revision petitions against the common order of the 26th of August, 1993 passed by the State Commission of Maharashtra in Appeal No. 212/ 91.

2. THE respondents were the complainants before the District Forum and would be referred to as complainants in our order. Likewise, the revision petitioners were opposite parties before the District Forum and will be described as such. The Complainant complaint petition alleged that the Canara Bank, Matunga (W) Branch, Bombay had debited her account with a sum of Rs. 50/- for issuing a cheque book containing 50 leaves and that his was an unfair trade practice. She maintained that the printing charges for the cheques cannot be passed off as clearing charges to the customers, that the charge of Rs. I per leaf should not he debited as ''''service charge'', and that this charge was also without any directive from the Reserve Bank of India. It was further maintained that as no interest is paid by banks on Current Accounts, such accounts are a source of "free income" to the banks and therefore, the levy of Rs. I per cheque leaf as printing or service charge was arbitrary, unjustified and unfair to the consumer.

3. THE State Commission held that there is no justification for levying Rs. 1 per cheque as printing charges, that this levy could not be possibly to discourage indiscriminate use of cheque facility as such consumers (account holders) are negligible in number and in any case, this levy could not be imposed on

customers who were not misusing the current account facility indiscriminately, that the facility of MICR cheques etc, is a facility made available to the consumers by all the banks since long and the intention of charging Rs. 1 was not made known to all the customers before hand. In this connection, the State Commission has observed that "We also feel that if such an action of charging Rs.l is allowed to be justified on the part of the bank, then there would be no end on the part of the banks to charge any amount for printing purposes because the Bank has to maintain Pass Books, Ledger Books, Scrolls and so many other stationeries and all these expenses will be again saddled on the consumers, on the analogy and logic which is behind charging Rs.l per leaf a cheque."

4. IT therefore, upheld the order of the District Forum which directed refund of Rs. 50/-recovered from the complainant for supply of blank cheques. The revision petitioner Indian Banks'' Association has in its application before this Commission made the following submissions: (1) That the Reserve Bank of India has only advised the banks not to pass on the processing cost levied by the Reserve Bank on the banks for introduction of computer cheque processing system. (2) That the charge by the banks to customers (for issue of cheque leaves) was due to increase in the totality of operating costs and that the clearance of the Government of India had been duly obtained before the public sector banks decided to go ahead with the charge for issue of blank MICR cheque leaves. Further in response to an enquiry by the MRTP, the Reserve Bank of India had in March, 1993 informed the MRTP to the same effect. (3) The Intervenors have, therefore, argued that there is no deficiency in service rendered by the banks in levying a charge from the Current Account holders for issuing MICR cheque books and that the District Forum and the State Commission have no power to declare illegal the levy of such charges. It is also contended that the relief granted by the lower Forums could not be granted under Section 14 of the Consumer protection Act.

5. WE have heard the parties and gone through their written submissions.

6. IN our considered opinion, the District Forum and the State Commission were dearly in error when they held that the banks had no power or justification to levy a charge for the issue of MICR cheque books to current account holders or that this was contrary to the instructions of the Reserve Bank of India More importantly, the charge which the banks choose to levy for providing their services is in the realm of pricing It is consideration for rendering banking services. It is beyond the jurisdiction of the Forums under the Consumer Protection Act to adjudicate on questions of the adequacy and reasonableness of the consideration or the price charged for the services rendered or to be rendered. Clearly there has been wrongful exercise of jurisdiction by the State Commission and the District Forum in this case. The revision petitions are allowed and the orders of the District Forum are set aside. There is no order as to costs.

7. BEFORE we part with this order, we would like to mention that in its order die

State Commission has observed that the revision petitioner-Indian Banks, Association, who were the intervenors before the State Commission, did not take the trouble of arguing the matter before the State Commission though full opportunity was available to it and that the opportunity provided by the State Commission to the Association was ignored by the Association. In this connection, we are constrained to take notice of the submissions by the revision petitioner- Indian Banks, Association in its revision petition. (1) The revision petitioner Indian Banks, Association did not get any fee from the Forum about the complaint. On the other hand, the District Forum only sent a copy of its order of the 29th of August, 1991 to the revision (2) The revision petitioner''s petition for intervening before the State Commission in its Appeal No. 212 of 1991 was rejected by the State Commission by an order passed in December, 1991. (3) After this Commission set aside the aforesaid order of the State Commission in September, 1992 and granted permission to the Revision Petitioner to appear as intervenors before the State Commission, they were not served with any notice Intimating them of the date of hearing fixed by the State Commission in 1992 and 1993, However, on learning from the second revision petitioner Canara Bank that the appeal which had been ordered to be re-heard had been fixed for hearing in January, 1993, they applied to the State Commission for a short adjournment because of the communal riots and disturbed situation in Bombay during that period and also because no notice had been received from the State Commission. But this request was also not granted and the Commission proceeded to dispose of the matter finally without hearing the intervenors. They came to know about the order passed by the State Commission only from Newspaper reports in September, 1993.

8. WE can only express the hope that the Consumer Forums would hear in mind the imperative obligations to afford a fair opportunity to the parties, which have the requisite locus standi of being heard in the case. We only repeat he age old maxim that justice should not only be done but it should also appear to be done. It is mandatory for the Consumer Forums to observe both in letter as well as in spirit the principles of natural justice in the proceedings before the.

