(2012) 04 NCDRC CK 0054

In the National Consumer Disputes Redressal Commission

Jagdish C Dighe APPELLANT

Vs

Ajara Urbanco-op Bank Ltd. RESPONDENT

Date of Decision : 17-04-2012

Acts Referred:

Citation : 2012 0 NCDRC 121 : 2012 2 CPJ 480 : 2012 2 CPR 316

Hon'ble Judges : V.B.Gupta , Vinay Kumar J.

Advocate : Sudhanshu S.Choudhari

Judgement

1. THESE are a set of three revision petitions filed by three individuals against the Ajara Urban Cooperative Bank Ltd, Thane, Maharashtra. The matter emanates from three separate but identical complaints before the District Consumer Forum Thane. In all three cases, the complaints were allowed and therefore, the OP/Bank went in appeal before the Maharashtra State Consumer Disputes Redressal Commission. The latter has disposed of the three appeals through a common order of 31.3.2011.

2. ALL three revision petitions have been filed with delay of 39 days which, considering the explanation of the petitioners, has been condoned and the matter taken up for consideration on merits. For facility of reference, facts as in RP No.3506 of 2011 are referred to in this order. The case of the complainants before the District Forum was that he had subscribed to a pension scheme of the OP/Bank called the ?Pension Aawart Thev Yojana?, under which deposit of Rs.3000/- per month had to be made for a total of 63 months. The maturity value of this investment i.e. Rs.2,78,670/- was to be paid to the nominee of the subscriber after his death. The subscriber was also to get a monthly pension of Rs.3,252/- from the date of maturity till his death. Allegedly, after completion of the period of 63 months on 30.6.2005, no pension was paid by the respondent/ Bank and hence, a consumer complaint was filed on 29.6.2007. The District Forum came to a conclusion that non-payment of the pension assured under the scheme was not justified. The OP/Bank did not have the right to refuse to pay the this amount at maturity. The contention of the OP/Bank was that the scheme

had been discontinued and therefore they could either pay the maturity value or interest at the prevailing rate. But, pension as contemplated under the scheme was not payable due to discontinuation of the scheme itself.

The District Forum allowed the complaint and made the following award:- ?1) The opponent-Bank shall pay to the complainant the pension of Rs.3252/- (Rupees three thousand two hundred fifty two only) Per month with 14% interest thise on from 1-7-2005 till his death. 2) The maturity and due amount of Rs.2,78,760/- (Rupees Two Lacs Seventy Eight Thousand Seven Hundred Sixty Only) be refunded and interest at 7 P.L.P.A. be paid thise on. 3) The opponent shall pay to the complainant Rs.5,000/- (Rupees Five Thousand only) as costs of the application and shall pay Rs.10,000/- (Rupees Ten Thousand Only) as damages and mental annoyance. The opponent shall pay all the amounts directly to the complainant within 30 days after the receipt of the certified copy of this order. If the said amount is not paid within prescribed time, the opponent shall pay Penal interest at the rate of 02% P.L.P.A. till its realization. The opponent is legally liable to pay said the amount.?

3. CONSIDERING the appeal filed by the Ajara Urban Cooperative Bank, the State Commission noted that in the application form itself, for making deposit under the scheme, the Complainants had agreed to abide by the rules, which may be changed by the Bank from time to time. This undertaking was given at the time of opening the account on 21.3.2000. Thereafter, as per the resolution passed on 27.7.2002 by the Board of Directors of the Bank, the depositors were informed that the ?Pension Awart Thev Yojana? was being discontinued. They were given the option to either to take back their deposit with accumulated interest on maturity or receive monthly payment by way of pension as per the applicable rate of interest, from time to time. The Complainant did not exercise their option and insisted on payment of pension of Rs.3253/- per month as contemplated under the original scheme. The State Commission in the impugned order has partially allowed the appeal and modified the order of the District Forum by setting aside the direction to pay monthly pension of Rs.3252/- and confirmed the remaining directions. The State Commission held that in view of discontinuation of the scheme while pension was not payable the Complainants remained entitled to receive the deposited amount together with interest.

4. WE have heard Shri S. S. Choudhari for revision petitioner/Complainant and perused the record of the case. The case of the revision petitioner/Complainant is that the scheme had come out in the year 2000 and therefore, the question of its modification on the basis of earlier notifications of the Reserve Bank of India should not arise. It is also argued that the respondent/Bank did not have any authority to withdraw /modify the scheme unilaterally after having accepted the requisite contribution from the petitioner. These arguments are fully met in the impugned order when the State Commission makes the following observations:- ? Referring to the application of opening the deposit accounts in the above referred scheme, it could be seen that the complainants agree to abide by the rules which

may be changed by the bank from time to time covering those deposits. Such undertaking is given on 21/03/2000 while opening the deposit accounts. Thereafter as per the resolution passed in its Board of Directors per Resolution no.54 dated 27/07/2002, the bank informed the depositors including the complainants that said scheme of ?Pension Aawart Thev Yojana? was to be discontinued and it was further decided to give an option to the depositor either to take back the deposit along with accumulated interest on their maturity or to receive monthly payment by way of pension as per then applicable rate of interest on the accumulated deposit amount. The interest applicable would the rate of interest as may be applicable from time to time. It is stated that the complainants did not exercise their option but as per the reliefs claimed, they were insisting for payment of pension amount @?3252/- per month.? From the above observations of the State Commission, it is clear that the modification was in terms the Board Resolution of 27.7.2002, which was two years after the commencement of the scheme. Secondly, permissibility of such modification was covered under the undertaking of 21.3.2000 given by the petitioner/ Complainant. Therefore, the question of unilateral modification of the scheme to the disadvantage of the investors will not arise. Secondly, the petitioner had the option to receive the maturity amount of Rs.2,78,760/- but had not exercised that option.

5. THE impugned order has modified the award of the District Forum only to the extent of deletion of the direction to pay the monthly pension of Rs.3252/-. This has been explained in the impugned order. As the scheme of deposit itself had been discontinued, the question of monthly pension would not arise. THE other directions of the District Forum to pay the maturity value of Rs.278760/- together with 7% interest, Rs.10,000/- towards compensation and Rs.5,000/- towards costs, have remain unchanged in the impugned order.

6. IN our view the impugned order is based on correct appreciation of the material on record and does not call for any interference by this Commission. Consequently, the revision petitions are dismissed for want of merit. There are no orders as to costs.

