

(2007) 01 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

KAMLESH KUMAR NRI

APPELLANT

Vs

ALLAHABAD BANK

RESPONDENT

Date of Decision : 16-01-2007

Acts Referred:

Citation : 2007 1 CPR 226 : 2007 2 CPJ 45 : 2007 2 UC 876

Hon'ble Judges : K.S.Gupta , P.D.Shenoy J.

Advocate : Aman Mehta , Shiv Shankar

Judgement

1. THIS revision is directed against the order dated 30. 9. 2005 of State Commission, Delhi deciding the appeal against the order dated 28. 6. 2002 of a District Forum with direction to the respondent to calculate the rate of interest at the rate prescribed by the RBI only from the date when the branch office received the circular and not at the prior point of time. The District Forum had allowed the complaint filed by the petitioner with direction to the respondent to pay \$118. 53 for the FDR which matured on 21. 11. 1994 and \$ 452. 05 for the two FDRs which matured on 8. 4. 1995 and 13. 4. 1995 and further to pay compensation of Rs. 5,000 for mental agony and cost of Rs. 2,000.

2. FACTS giving rise to this revision lie in narrow compass. Petitioner/ complainant, a Non-Resident Indian had deposited \$ 3124. 05 on 21. 11. 1992 with the respondent/opposite party bank at an interest rate of 10% p. a. for two years and maturity value of deposit was \$ 3797. 28. Petitioner further deposited \$ 10,000 on 19. 4. 1993 on an interest rate of 8% p. a. for two years. He further deposited \$ 10,000 with the respondent bank at the said rate of interest of 8% p. a. for two years. Maturity value of these later two deposits was \$11,716. 59 each. Petitioner alleged that short payment of \$ 118. 53 was made in respect of the deposit maturing on 21. 11. 1994. Short payment of \$ 371. 18 was alleged to have been made in respect of remaining two deposits. Complaint seeking payment of this short payment etc. filed by the petitioner was contested by the respondent. It was not disputed that the amount as stated by the petitioner were deposited with the bank. However, it was alleged that the respondent is a

nationalised bank constituted under Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 and the guidelines issued by RBI are binding on it. As per RBI guidelines the interest applicable on such deposits was @ 8.75% w. e. f. 21. 11. 1992 and @ 7.25% w. e. f. 13. 4. 1993. In absence of official and authentic confirmation of the said rates of interests of respective maturity of the value of the deposits of the petitioner were fixed allowing existing rates of interest officially circulated to it subject to variation of rates of interest thereon by R. B. I. It was claimed that payment of three deposits had rightly been made to the petitioner. Main thrust of argument advanced by Mr. Aman Mehta for petitioner is that the respondent bank is liable to pay contractual rate of interest as mentioned in three FDRs (copies are at pages 9 and 10) and bank had not filed the guidelines fixing rate of interest @ 8.75% w. e. f. 21. 11. 1992 and @ 7.25% w. e. f. 13. 4. 1993. According to Mr. Mehta, the petitioner is entitled to interest at contractual rate also for the remainder period. Reliance was placed on the decision in *Zila Sehkari Bank Ltd. v. U. P. Police Avas Nigam Ltd.*, I (2005) CPJ 89 (NC). On the other hand, contention advanced by Mr. Shiv Shankar for respondent bank is that the petitioner is not entitled to interest over and above the rate (s) fixed by RBI and amounts of Rs. 5,000 towards compensation and Rs. 2,000 as costs have been paid by the bank to the petitioner. It was pointed out that petitioner had also contracted to receive interest at the rate (s) varied from time-to-time by R. B. I. Strong reliance was placed on the decision in *Indian Overseas Bank v. Klebert Pierre, III* (2002) CPJ 77 (NC). To be noted that in the rejoinder filed to the written version of the bank the petitioner has not specifically denied that rate of interest on such deposits fixed by RBI was @ 8.75 w. e. f. 21. 11. 1992 and @ 7.25% w. e. f. 13. 4. 1993 as pleaded in the written version. In absence of specific denial to that effect, averment made to the above effect in the written version will be deemed to be admitted by the petitioner. No evidence needs be adduced on an admitted fact. It is pertinent to mention that in all the three FDRS towards right hand side it is printed that interest rate expressed in receipts is subject to RBI instructions that may be issued from time-to-time. This condition is binding on the petitioner. Therefore, despite higher rate of interest and maturity value of deposits having been indicated in three FDRS, the petitioner is entitled to interest on the deposit maturing on 21. 11. 1992 @ 8.75% as against 10% and @ 7.25% instead of 8% per annum in respect of remaining two deposits. This conclusion reached by us is fully supported by *Indian Overseas Bank's* case (supra). *Zila Sehkari Bank Ltd.*'s case (supra) being distinguishable on facts, has no applicability to the facts of present case. There was no deficiency in service on the part of the respondent bank. Though the orders passed by Fora below are not in consonance with the view taken by us still those orders cannot be disturbed as the bank has not filed any revision petition against State Commission's order. Revision is, therefore, dismissed leaving the parties to bear their own costs. Revision dismissed.