(1993) 06 NCDRC CK 0037

In the National Consumer Disputes Redressal Commission

LAL CHAND APPELLANT

Vs

Punjab National Bank RESPONDENT

Date of Decision : 09-06-1993

Acts Referred:

Citation : 1993 2 CLT 457 : 1993 3 CPJ 1347

Hon'ble Judges : R.N.Mittal , A.N.Saxena J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal has been filed by the complainant against the order of the District Forum-II dated 5.11.92 dismissing the complaint.

2. BRIEFLY the facts are that the complainant issued two cheques bearing Nos. 106826 and 106827 for Rs. 13,400/- each in favour of UTI for purchasing two 1000 US-64 units. The cheques were presented for encashment on behalf of the UTI; cheque bearing No. 106827 was honoured by the respondent, whereas the other cheque bearing No. 106826 was returned with the remarks ''signature differ''. As a result his application for purchase of 1000 units was cancelled by the UTI. The complainant approached the Bank Manager, who on his representation wrote a letter to the UTI on 18.11.89 that the cheque had been returned inadvertently by the Bank and it be presented again. The UTI did not accede to the request of the Manager. The complainant filed a complaint before the District Forum for recovery of compensation.

The complaint was contested by the respondent. They inter-alia pleaded that the service rendered by the Bank was without consideration and therefore the complaint was not maintainable. They further pleaded that there was no negligence or inefficiency on the part of the Bank in returning the cheque as the signatures of the complainant on the cheque differed from his specimen signatures. They next pleaded that the complainant had withdrawn the complaint with the authorities vide letter dated 25.10.90 and therefore he was estopped from filing the present complaint.

3. THE learned District Forum came to the conclusion that the Bank was rendering service to the customers for consideration and therefore the complaint was maintainable. On merits it held that the letter sent by the Manager to the UTI could not be used as admission on the part of the Bank that the report regarding the signature was incorrect. It also held that the complainant was estopped from filing the complaint. In view of the aforesaid findings it dismissed the complaint. Complainant has come up in appeal against the order of the Forum to the Commission. The first question that arises for determination is, whether the letter sent by the Manager of the respondent to the UTI proves that there was negligence on the part of the respondent in returning the cheque. The appellant has vehemently argued that the admission by the Manager that the cheque had been returned inadvertently showed beyond a shadow of doubt that there was negligence on the part of the bank officials. On the other hand the learned Counsel for the respondent has argued that the complainant requested the Branch Manager to accommodate him and write the letter to the Unit Trust of India to represent the cheque so that the complainant may not suffer any loss and that the Manager acceded to his request and represented the cheque. He referred to the affidavit of Mr. M.L. Arora, Manager of the Bank in support of his contention.

4. WE have duly considered the arguments. The affidavit of Mr. M.L. Arora, Manager, on which the learned Counsel for the respondent has placed reliance was not the Manager, during the time when the cheque had been returned by the Bank. No affidavit of that Manager, who wrote the letter, has been filed explaining the circumstances under which he wrote the same to the UTI. Therefore, no reliance can be placed on the affidavit of Mr. Arora. The Manager in his letter, has used the word that the cheque had been returned inadvertently on the ground that the signatures of the drawer differed, and he requested the UTI to represent the same. The word ''inadvertent'' according to the Shorter Oxford English Dictionary Vol. I (Reprint 1988) inter-alia means ''negligent''. Thus it can safely be inferred that it was on account of negligence of the Bank that the cheque had been dishonoured otherwise the Manager would not have used that language in his letter. Therefore, we hold that the cheque was dishonoured on account of negligence on the part of the Bank. The next question that arises is whether the complaint is estopped from filing the complaint. Our attention has been drawn to the letter dated 25.10.90 by the complainant to the Manager of the Punjab National Bank, in which he stated that he was satisfied with the service provided by the Branch to him and consequently he withdrew his complaint in connection with returning of cheque by the Bank to the UTI due to variation in signatures. It is relevant to point out that the complainant had another account with the Bank. Regarding that account also he had made a complaint and that complaint too was withdrawn by him alongwith the withdrawal of the above mentioned complaint. In view of the aforesaid letter we are of the opinion that the complainant is estopped from filing the present complaint. For the aforesaid reasons we do not find any merit in the appeal and

dismiss the same with no order as to costs. Appeal dismissed.