(2005) 12 NCDRC CK 0048

In the National Consumer Disputes Redressal Commission

MAJOR RAJENDRAN GOPALAN MENON — APPELLANT

Vs

State Bank of India — RESPONDENT

Date of Decision : 16-12-2005

Acts Referred:

Citation : 2006 1 CPR 237 : 2006 2 CLT 350 : 2006 2 CPC 111 : 2006 2 CPJ 194

Hon'ble Judges : B.K.Taimni J.

Final Decision : Appeal allowed

Judgement

1. APPELLANT was the complainant before the State Commission, where he had filed a complaint alleging deficiency in service on the part of the respondent, State Bank of India (?) (who dismissed) on the ground that the appellant is not a ''consumer'' within the meaning under Section 2(1)(d) of the Consumer Protection Act, 1986.

2. VERY briefly the facts of the case are that the complainant retired from Army and the Controller of Accounts (Pension), issued PPO in favour of the complainant and complainant was entitled to receive pension as collected by CDA (Pension). The grievance of the complainant was that the Bank was not collecting and crediting the pension to his account and DA which is accrued to him. When his repeated visits and discussion with the Bank did not give the desire results, a complaint was filed before the State Commission, who dismissed this on sole ground that complainant is not a ''consumer''. We heard the learned Counsel for the parties and perused the material on record. We have only to see the judgment of the Hon''ble Supreme Court in the case of Regional Provident Fund Commissioner v. Shiv Kumar Joshi, III (1999) CPJ 36 (SC)=X (1999) SLT 395=(2001) 1 SCC 98 (Civil Appeal No. 411 of 1997, decided on 14.12.1999), where it is clearly laid down that a beneficiary shall also fall within the definition of ''consumer''. Hon''ble Supreme Court after going through several judgments and Law books/Dictionaries stated "Consideration is not be confounded with motive. Consideration means something which is of value of the eyes of law, moving from the plaintiff either of benefit to the plaintiff or of determent to the

defendant". Relying upon the judgment, we are clearly of the view that the appellant/complainant was the beneficiary under the Scheme and Bank was rendering service to him within the meaning of Consumer Protection Act, 1986 for a consideration. In view of this, we are unable to sustain the order, passed by the State Commission, which is set aside and the case is remanded back to the State Commission to give an opportunity to both the parties to lead evidence, if not already done and pass the orders on merits, as per law.

Both the parties are directed to appear before the State Commission on 8.3.2006.

3. COPY of this order be sent to Major Rajendran Gopalan Menon (Retd.), appellant and respondent and its Counsel. Appeal allowed.

