(1993) 04 NCDRC CK 0138

In the National Consumer Disputes Redressal Commission

MANAGER, BANK OF INDIA — APPELLANT

Vs

RANKANIDHIOJHA — RESPONDENT

Date of Decision : 02-04-1993

Acts Referred:

Citation : 1993 3 CPJ 1306

Hon'ble Judges : S.C.Mohapatra , R.N.Panigrahi , J.Patnaik J.

Final Decision : Order set aside

Judgement

1. OPPOSITE-party Nos. 1 to 4 are the appellants against the direction of the District Forum.

2. CASE of complainant is that he opened a recurring deposit account with the Bank of which opposite parties are the officers to own a motor cycle under the scheme popularly known as ''save now buy later''. After sometime he discontinued the said account. About three years after, he filed an application on 6.6.1991 for financial assistance to purchase a motor cycle under another scheme ''Buy now pay later'' as per the advertisement of the two schemes. When his application was not attended to and he did not get the finance as applied for, complainant filed dispute on 28.9.1991. Opposite-Party No.1 on receipt of complaint stated his case. Other opposite parties did not prefer to state their cases in spite of receipt of copies of complaint. Case of the Opposite-Party No.1 is that the recurring deposit was for five years on monthly payment of Rs.100/- which was to mature in December, 1993. Prior to the maturity of the account, complainant applied for a loan. Since the complainant had not applied for in accordance with the terms and conditions of the scheme, he is not entitled to claim any loan.

Some documents were filed before the District Forum on the basis of which it held that complainant is entitled to the loan and accordingly, gave a direction to the bank for payment of the same. This is grievance of the appellants.

3. THERE is no dispute that getting loan from the bank is banking service.

Complainant promised to pay interest on the loan which is the consideration for hiring the service. Thus, he is consumer. Accordingly, complaint is entertainable. Redressal Agencies under the Consumer Protection Act are authorised to give direction to the opposite parties to pay the compensation in case they find that there is deficiency in service which is outcome of negligence and has caused suffering to the consumer. District Forum has not considered these questions for giving the direction. It considered conduct of opposite parties as if it is considering the matter as a superior authority of opposite parties. It may be clarified Redressal Agencies under the Act are not the Appellate Authorities of the opposite parties. If a decision is taken by a bank wrongly but honestly that loan should not be advanced to an applicant, there is no negligence in taking such decision. THERE is no scope for the Redressal Agencies to give any direction in this regard. When a person has made an application on the basis of some deposit for financial assistance, he is entitled to a communication of the fate of his application. This is ancillary to any service to be rendered and the hire charges promised for such service include this ancillary service. If there is deficiency in this service on account of negligence of the opposite parties and the Redressal Agencies come to a conclusion that on account of such deficiency in service which is outcome of negligence, consumer has suffered, it can give direction to pay compensation for the suffering of the applicant. Redressal agencies should not assist a consumer to enrich himself by utilising it for the purpose. Since the District Forum has not kept the aforesaid principle in mind while giving the direction and both the parties have also not adduced materials before the Forum in support of their respective cases in the light of the principle stated above, we set aside the order and remit the complaint back to the District Forum for fresh consideration.

4. IN result, appeal is allowed to the extent indicated above. Order set aside.