

(2011) 05 NCDRC CK 0037

In the National Consumer Disputes Redressal Commission

Manager SC DCC Bank

APPELLANT

Vs

Shivarama Rao

RESPONDENT

Date of Decision : 24-05-2011

Acts Referred:

Citation : 2011 0 NCDRC 279

Hon'ble Judges : V.B.Gupta , Suresh Chandra J.

Final Decision : Petition is dismissed

Judgement

1. CHALLENGE in this revision petition is to the order dated 02.09.2006 passed by the Karnataka State Consumer Disputes Redressal Commission, Bangalore (State Commission for short) by which the State Commission dismissed the appeal of the petitioner filed against the order dated 07.01.2005 passed by the District Forum accepting the complaint of the respondent.

2. BRIEFLY stated, the facts of this case are that the complainant, petitioner herein, was holding a savings bank account bearing no.5730 with the OP Bank and he had a credit balance of more than Rs.3 lakhs in the said account. On 26.08.2003, the complainant demanded a cheque book for operating his account but the OP Bank refused to issue the cheque book on the ground that there is an order of stay from the Karnataka Appellate Tribunal (KAT). It is the case of the complainant that the OP Bank in collusion with the Executive Officer of the Chokkady VSS Bank where the complainant was working as an officer, illegally withheld the amount held in the savings bank account by non-issuing the cheque book thereby committed deficiency in service. He, therefore, lodged a consumer complaint seeking direction from the District Forum to the OP to pay Rs.3,29,980/- being the balance amount in the savings bank account of the complainant along with interest thereon at 21% p.a. from 26.08.2003 and also to pay Rs.10,000/- as compensation for deficiency of service and mental agony plus cost of the proceedings. On being noticed, the OP Bank resisted the complaint on the ground that the President of the Chokkady VSS Bank where the complainant was working, had requested the OP Bank to stop payment and this

request letter was accompanied by a copy of the stay order of the KAT. It was also submitted that the OP Bank had also received a letter from its head office stopping payment of Rs.3,78,880/- and, therefore, the OP Bank had refused to issue the cheque book to the complainant but had denied any deficiency of service on its part since it was duty bound to obey the orders of the court as well as the head office. On appraisal of the issues and the evidence adduced by the parties, the District Forum accepted the complaint by its order dated 07.01.2005, which was challenged in appeal by the OP Bank but the same was dismissed by the State Commission by its impugned order. We have heard counsel for the parties at length and perused the record. The main contention of the counsel for the petitioner is that since there was a stay order granted by the Karnataka Appellate Tribunal, a copy of which was forwarded by the President of the Chokkady VSS Bank while making a request to the OP Bank for stopping payment from the savings bank account of the complainant, the OP Bank was duty bound to take cognizance of the judicial order of the KAT and hence complied with the request made by the President of the Chokkady VSS Bank. He has, therefore, submitted that the fora below erred in ignoring this important aspect while returning their concurrent findings against the OP Bank. Per contra, the argument of the counsel for the respondent is that the stay order in question granted by the KAT was not against the operation of the savings bank account of the respondent held in the petitioner/OP Bank. In view of the refusal of the OP Bank to issue a cheque book to the respondent/complainant, he felt harassed and had to approach the High Court which upheld the stand of the complainant and directed the OP Bank to permit the complainant to withdraw the amounts lying to his credit in his savings bank account. He further submitted that since the OP Bank refused to take notice of the fact that there was confusion regarding the scope and effect of the stay order passed by the KAT, there was deficiency on its part in not issuing the cheque book and permitting the complainant to operate the savings bank account held in the OP Bank. Closing his arguments, he submitted that even if it is assumed that the main reason for refusal to issue the cheque book by the OP Bank was the stay order of the KAT, at least from the date of the High Courts order, i.e., 21.07.2004, the OP Bank should have permitted the complainant to withdraw the amounts lying in his savings bank account but the same was not done and there was delay in permitting the withdrawal because the same was allowed only on 10.09.2004 as can be seen from the statement filed at Annexure P-7. In his additional submissions, counsel for the petitioner Bank has submitted that the order dated 21.07.2004 passed by the Karnataka High Court was presented to the petitioner Bank along with letter dated 08.09.2004 by the respondent seeking issuance of cheque book and accordingly the cheque book was issued and respondent was allowed to withdraw sum of Rs.3,50,000/- including the principal amount on 10.09.2004 and hence there was no deficiency of service on the part of the OP Bank.

Having heard the submissions of the counsel for the parties, we are of the considered view that there was deficiency of service on the part of the OP Bank

in delaying the issuance of the cheque book to the complainant after the order of the High Court which was passed on 21.07.2004 by which the OP Bank has been directed to permit the respondent to withdraw the amounts lying in his savings bank account. It is also to be noted that when the complainant initially approached the OP Bank to issue him a cheque book for operating his savings bank account, the OP Bank should have taken due care to find out as to whether the stay order in question passed by the KAT which was all along relied upon by the President Chokkady VSS Bank while requesting the OP Bank to stop payment, really covered the operation of the savings bank account of the complainant or it did not apply to the savings bank account of the complainant as such. Obviously, such care was not taken by the OP Bank while refusing to issue the cheque book to the complainant. There is no material placed by the petitioner Bank on record to clarify and establish that the KAT order was against the operation of the savings bank account. All these aspects have been duly considered by the District Forum in its detailed and well-reasoned order which has been upheld by the State Commission while dismissing the appeal of the OP Bank. We do not find it necessary to reiterate the reasons recorded by the fora below in their orders while returning their concurrent findings against the OP Bank. In the circumstances, we do not see any reason or ground to interfere with the impugned order. The revision petition being devoid of any substance, therefore, has to be dismissed and the same is dismissed with no order as to costs.