
(2006) 02 NCDRC CK 0099

In the National Consumer Disputes Redressal Commission

M.M.SUD

APPELLANT

Vs

P.MUNIRAJU

RESPONDENT

Date of Decision : 02-02-2006

Acts Referred:

Citation : 2006 2 CPC 711 : 2006 4 CPJ 39

Hon'ble Judges : K.S.Gupta , B.K.Taimni J.

Final Decision : Revision dismissed

Judgement

1. THIS revision is directed against the order dated 22.6.2005 of Karnataka State Consumer Disputes Redressal Commission, Bangalore dismissing appeal against the order dated 10.5.2005 of a District Forum whereby petitioners/O.Ps. were directed to refund amount of Rs. 64,400 with interest minus Rs. 47,000 to the respondent/complainant.

2. FACTS giving rise to this revision lie in a narrow compass. Respondent had been working as an Assistant in petitioner's industry since 22.4.1992 and because of accident in industry, he lost his vision and, therefore, was removed from service. Petitioners started two companies viz., Essud Software and Laxmi Polymers invited fixed deposits from the labourers for five years. Respondent deposited Rs. 10,000 on 11.2.1995, the maturity value of which was 32,200 and again Rs. 10,000 on 16.7.1994, the maturity value whereof was also Rs. 32,200. It was alleged that on maturity of deposits the petitioners informed that the Company was in financial difficulty. The amount will be refunded in instalments. Petitioners paid amounts on 20.3.2002, 16.2.2002 and 24.7.2003 aggregating Rs. 47,000 to the respondent. On balance amount not being paid, the respondent alleging deficiency in service filed a complaint against the petitioners. Notice sent in the complaint by District Forum were received back with the endorsement "not claimed". Treating this to be sufficient service, the District Forum passed the aforementioned order taking note of affidavit filed by the respondent by way of evidence ex parte against the petitioners. Order of State Commission passed in appeal against District Forum's order would show that the

stand taken by the petitioners in regard to non-service of notice in complaint was negated by it while confirming the order of the District Forum.

Contention advanced by Mr. Ashok H. for petitioners was mainly two fold, (1) amount of Rs. 5,000 was received by respondent towards full and final settlement of dues from the petitioners on 22.10.2002 and (2) complaint filed on 6.12.2004 was barred by time taking the date of 22.10.2002 as the starting point of limitation. To be only noted that the defence in regard to the respondent having received Rs. 5,000 on 22.10.2002 towards full and final settlement of dues can be decided only on the basis of the evidence thereto by petitioners and they being ex parte there is no evidence in support thereto. Further, in the complaint the respondent alleges further payment by the petitioners on 16.2.2003 and 24.7.2003 and, therefore, 22.12.2004 cannot be taken as the date for completion of limitation period for the filing of complaint. Taking the last payment the complaint filed on 6.12.2004 which was within the limitation period, thus, both the contentions referred to above are rebut being without any merit. Resultantly, the revision is dismissed being without any merit with Rs. 3,000 as cost to the respondent. Revision dismissed.