(2016) 02 P&H CK 0313

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 25188 of 2012 (O&M).

M/s Metals India — APPELLANT

Vs

Corporation Bank and Others — RESPONDENT

Date of Decision : 08-02-2016

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2016) 2 PLR 595

Hon'ble Judges : Rajesh Bindal, J.

Bench : Single Bench

Advocate : Rohit Ahuja, Advocate, for the Appellant; Tribhawan Singla, Advocate, for the Respondent

Final Decision : Disposed off

Judgement

Rajesh Bindal, J. - Challenge in the present petition is to the communication dated 25.6.2012 vide which the appeal of the respondent-bank filed before the Appellate Authority against the order passed by the Banking Ombudsman in complaint no.201112014001433, was allowed.

2. The point raised by learned counsel for the petitioner was that in a detail award, the Banking Ombudsman accepted the complaint made by the petitioner against the bank for award of Rs. 9,79,386.70 along with applicable interest. Being aggrieved against the award, the respondent bank preferred appeal. The submission is that without even issuing notice in the appeal for affording opportunity of hearing, the same was accepted by the Appellate Authority and merely a communication was sent regarding acceptance of appeal without there being any order passed.

3. Referring to Clause 14(2) of the Banking Ombudsman Scheme 2006 (for short, ''the Scheme''), as framed in exercise of the powers conferred under Section 35A of the Banking Regulation Act, 1949 (10 of 1949), it was submitted that the Appellate Authority is bound to afford reasonable opportunity of hearing

to the parties before dealing with the appeal. The prayer is that the impugned order be set aside and the matter be remitted back to the Appellate Authority for fresh decision after affording opportunity of hearing.

4. Learned counsel for respondent Nos. 1 and 2 did not dispute the fact that the Appellate Authority had not issued any notice to the petitioner before deciding the appeal.

5. Heard learned counsel for the parties and perused the paper book.

6. In the case in hand, the complaint filed by the petitioner was accepted by the Banking Ombudsman awarding Rs. 9,79,386.70 along with applicable interest. Aggrieved against the award, the respondent-bank preferred appeal before the Appellate Authority, which was to be dealt with in terms of Clause 14(2) of the Scheme, which is extracted below:-

14. APPEAL BEFORE THE APPELLATE AUTHORITY

(1) xx xx xx

(2) The Appellate Authority shall, after giving the parties a reasonable opportunity of being heard

(a) dismiss the appeal; or

(b) allow the appeal and set aside the Award; or

(c) remand the matter to the Banking Ombudsman for fresh disposal in accordance with such directions as the Appellate Authority may consider necessary or proper; or

(d) modify the Award and pass such directions as may be necessary to give effect to the Award so modified; or

(e) pass any other order as it may deem fit."

7. A perusal of the aforesaid scheme shows that the Appellate Authority is to decide the appeal after giving the parties a reasonable opportunity of being heard. In the case in hand, the petitioner was not even issued any notice in the appeal, what to talk of affording opportunity of hearing before decision. The order was communicated by way of a letter where no reasons are forth coming. Meaning thereby there was complete violation of process of the Scheme.

8. Considering the aforesaid factual matrix, in my opinion, the communication dated 25.6.2012 vide which the appeal filed by the respondent-bank was accepted by the Appellate Authority deserves to be set aside.

9. Ordered accordingly.

10. The matter is remitted back to the Appellate Authority to be decided afresh in accordance with law after affording opportunity of hearing to both the parties. The parties are directed to appear before the Appellate Authority on 21.3.2016.

11. The petition stands disposed of.

