(2003) 03 NCDRC CK 0073

In the National Consumer Disputes Redressal Commission

MUMTAZ T. KHAMBATI — APPELLANT

Vs

Branch Manager, Karur Vysya Bank Ltd. — RESPONDENT

Date of Decision : 20-03-2003

Acts Referred:

Citation : 2004 2 CPJ 132 : 2004 3 CPR 166

Hon'ble Judges : P.Ramakrishnam Raju , Mamata Lakshmanna J.

Final Decision : Appeal allowed

Judgement

1. THIS appeal is filed by the unsuccessful complainants in O.P. No. 1132/1994 on the file of District Forum-II, Hyderabad.

2. THE case of the complainants is that they had an understanding with the opposite parties that foreign remittance made in London on to transfer his account in India will be done at the best possible rate in Indian rupees for that particular day and the proceeds would be converted into certificates of deposit for 91 days carrying the best possible rate of interest applicable In pursuance of the above understanding the donors of the complainants deposited an amount of 3,08,675.75 on 15.10.1991 at 9.00 a.m. (GMT) at London. The opposite parties'' bankers informed their international Division Branch at Madras on the same day by telex, the fact of deposit of money in the complainant''s account and this fact was also informed to opposite party No. 1 by telephone at Secunderabad to deposit Rs. 1,35,80,101.00 into 8 accounts of 8 complainants. The rate adopted by the Madras International Division Branch was Rs.100/- equivalent to 2.2730. The opposite parties issued 5 certificates of deposits by clubbing the two accounts of two complainants with the other two accounts mentioning the rate of interest at 15.84%. Receipts were delivered on 30.10.1991 with an endorsement " Interest to run from 15 October, 1991". The grievance of the complainants is that the opposite parties credited the lesser amount applying the rate prevalent on 16.10.1991 whereas the prevailing rate of exchange for Pound () in Hyderabad on 15.10.1991 was Rs. 100/- equivalent to 2.2700. The complainants, therefore, represented to opposite party No. 2, Chairman of the

Bank, pointing out the deficiency in service in not crediting the correct amount by adopting the interest rate applicable on 15.10.1991. After correspondence for almost two years, opposite party No. 2 rejected the claim for reimbursement of Rs. 21,613/-. The complainants, therefore, gave a final notice to opposite parties and filed the complaint before the District Forum.

Opposite parties filed their counter and also affidavit denying the allegations and alleged that the complainants were not ''consumers'' as per the Act, that the complaint was time barred as the cause of action took place on 15.10.1991 and the complaint was filed in 1994 and that the deposit is made in Pounds in London and was immediately credited to the complainants'' accounts and the interest rate prevalent on that day was given. Hence there is no deficiency in service.

3. THE District Forum though found deficiency in not giving the interest rate applicable on 15.10.1991 but dismissed the complaint on the ground that it was time barred as the cause of action arose on 15.10.1991 and the complaint was fied in the year 1994. Hence the appeal. We have gone through the documents filed and found that the dispute was regarding the money remitted in Pounds in London should have been converted into rupees on 15.10.1991 itself i.e. the date of deposit or it could have been converted on the next day since 9.00 a.m. GMT, the time of deposit is 3.00 p.m. in India when the foreign exchange transactions are closed for the day or since the Pounds were deemed to have been deposited on 15.10.1991 itself, the interest rate also should have been accepted for that day and not from the next day. We have to also consider whether the complaint was time barred as found by the District Forum.

4. IT is true that the respondents replied the first letter of the complainants dated 20.11.1991 on 23.11.1991, where they stated that the matter has been referred to the International Division and the concerned branch and after receipt of their reply, the complainants would be informed. The second letter dated 3.12.1991 of the second respondent stated that steps have been initiated in the matter and it would be completely studied and if there was a case, the bank will make amends. However, after these two letters there was no further communication from the Bank till 2.9.1993 when it finally rejected the claim, though the appellants wrote number of letters. Therefore, if we take into account the rejection letter dated 2.9.1993, the complaint is not time barred. As per the letter dated 2.9.1993 the money was deposited at London and immediately telex was sent and thereupon the branch at Secunderabad was advised to credit the amount to the account of the complainants without any delay. The respondents contend that the Banks in India are not expected to transact in foreign exchange business beyond the Banking hours. As per Ex. A1 dated 15.10.1991 of State Bank of India, Hyderabad the conversion rate of sterling pound is shown as 2.2700 however, the exchange rate for 16.10.1991 has not been filed. However, there is no document filed by the respondents to show the rate prevailing on 16.10.1991 on which date they were supposed to have converted the pounds. As per their version on 16.10.1991 Rs. 100/- was equal to 2.2730 at which rate it

was credited to the accounts of the appellants. Since they have received the message on 15.10.1991 and the pounds were deposited in their Bank at London on the same day and communicated to Madras Exchange, who in turn directed Secunderabad branch to remit in the accounts of the appellants, it will be in the fitness of the things that they should pay the appellants at the conversion rate prevailing on 15.10.1991. It is not the concern of the appellants whether the respondents Bank was able to utilise the money from the same day or on the next day. We, therefore, agree with the finding of the District Forum that there is deficiency in service in not remitting the rate prevailing on 15.10.1991 to the credit of the appellants'' accounts. Keeping the final decision pending for two years if things were really that clear, the respondents need not take all the time in replying the appellants. We, therefore, allow the appeal and set aside the order of the District Forum dismissing the complaint and direct the respondents to give remittance of the amount in the C.D. of the appellants on 15.10.1991 at the prevailing rate on that day with costs of Rs. 5,000/-. Appeal allowed.