

(2005) 07 NCDRC CK 0061

In the National Consumer Disputes Redressal Commission

National Thermal Power Corporation Ltd	APPELLANT
Vs	
BHIMSAIN	RESPONDENT

Date of Decision : 25-07-2005

Acts Referred:

Citation : 2007 2 CPJ 108

Hon'ble Judges : K.S.Gupta , P.D.Shenoy J.

Advocate : Rajiv Mehta

Final Decision : Dismissed

Judgement

1. -THIS revision is directed against the order dated 26. 5. 2005 of Consumer Disputes Redressal Commission Punjab, Chandigarh dismissing appeal filed against the order dated 1. 9. 2003 of a District Forum whereby petitioners/ opposite parties were directed to pay amount of Rs. 10,000 with agreed interest upto 29. 3. 2003 to the respondent/complainant.

2. DR. Pirthe Pal, father of respondent/complainant was possessing 10 NPT bonds 1986 first series of a value of Rs. 1,000 each. These were repayable with interest on 29. 3. 1993 i. e. after seven days. However, Dr. Pirthi Pal died on 21. 8. 1989. Respondent applied to petitioner No. 1 for release of the proceeds of the bonds on 17. 1. 2000. Vide letter dated 14. 2. 2002, the petitioner No. 1 advised the respondent either to furnish succession certificate or documents referred to in the latter to enable it to release the payment. Respondent did not send documents as suggested as alternate to succession certificate but applied for succession certificate on 9. 6. 2000. He was granted succession certificate by the competent Court on 17. 1. 2002. On the strength of succession certificate, respondent again approached petitioner No. 1 to remit the proceeds of the bonds. Vide letter dated 10. 5. 2003, the petitioner No. 1 intimated the respondent that as per requirement of Section 205c of Companies Act, the amount of the bonds in question had been credited to the Investors Education and Protection Fund. Complaint alleging deficiency in service filed by the respondent which was contested by the petitioner, was allowed by the District

Forum which order was affirmed in appeal filed by the petitioners by the State Commission reserving liberty to the petitioners to claim refund of the amount from the Investors Education and Protection Fund in accordance with law. Before advertng to the submission advanced by Mr. Rajeev Mehta for petitioners, it will be profitable to refer to Section 205c of the Companies Act which reads thus- " (1) The Central Government shall establish a fund to be called the Investor Education and Protection Fund (thereafter in this Section referred to as the "fund").

(2) There shall be credited to the Fund the following amounts, namely- (a) amounts in the unpaid dividend accounts of companies; (b) the application moneys received by companies for allotment of any securities and due for refund; (c) matured deposits with companies; (d) matured debentures with companies; (e) the interest accrued on the amounts referred to in Clauses (a) to (d); (f) grants and donations given to the Fund by the Central Government, State Govern-ments, companies or any other institutions for the purposes of the Fund; and (g) the interest or other income received out of the investment made from the Fund: provided that no such amounts referred to in Clauses (a) to (g) shall form part of the Fund unless such amounts have remained unclaimed and unpaid for a period of seven years from the date they became due for payment. Explanation -For the removal of doubts, it is hereby declared that no claims shall lie against the Fund or the company in respect of individual amounts which were unclaimed and unpaid for a period of seven years from the dates that they first became due for payment and no payment shall be made in respect of any such claims.

(3) The Fund shall be utilized for promotion of investors awareness and protection of the interests of investors in accordance with such rules as my be prescribed,

(4) The Central Government shall, by notification in the Official Gazette, specify an authority or committee, with such members as the Central Government may appoint, to administer the Fund, and maintain separate accounts and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(5) It shall be competent for the authority or committee appointed under Sub-section (4) to spend moneys out of the Fund for carrying out the objects for which the Fund has been established. Dividend not to be paid except to registered shareholders or to their order or to their bankers. "

Contention advanced by Mr. Mehta was that (i) as the amount of the bonds in question remained unclaimed for a period of seven years after their maturity, the petitioners were under an obligation to credit the amount thereof as per requirement of Section 205c; (ii) in view of explanation appended to Sub-section (1) of said Section, no claim for the amount of bonds would lie against the petitioners; (iii) claim for the proceeds of bonds should have been made in three

years under Entry 28 of the Limitation Act, 1963 and complaint was, thus, barred by limitation; and (iv) respondent did not have any cause of action against the petitioners. Bare reading of the order of State Commission would show that similar submission except pertaining to respondent having no cause of action was raised before the State Commission and it was of the view that amount of bonds in question did not remain unclaimed for seven years as the respondent had set the process in motion for claiming the amount by sending letter dated 17. 1. 2000 to which reply dated 14. 2. 2000 was sent by petitioner No. 1; Section 205c was not attracted to the facts of this case; three years limitation period under Entry 28 of Limitation Act, 1963 would not apply and cause of action to file complaint accrued to the respondent only after receipt of petitioner's letter dated 10. 5. 2002 denying payment of the amount of bonds and complaint was, thus, within limitation. We are not inclined to take a view different from that taken by the State Commission on all the three counts. Contention of respondent having no cause of action is also relatable to the said points. There is, thus, no illegality or jurisdictional error in the order passed by State Commission warranting interference in revisional jurisdiction under Section 21 (b) of Consumer Protection Act, 1986. Revision petition is, therefore, dismissed. Revision Petition dismissed.