(2006) 02 NCDRC CK 0028

In the National Consumer Disputes Redressal Commission

N.NARAYANAN APPELLANT

Vs

GOVERNMENT SERVANTS CO-OP. THRIFT AND CREDIT SOCIETY LTD. RESPONDENT

Date of Decision : 28-02-2006

Acts Referred:

Citation : 2006 4 CPJ 18

Hon'ble Judges : K.Sampath , R.Vanaroja , PonGunasekaran J.

Final Decision : Appeal dismissed

Judgement

1. THE complainant in COP No. 105/2003 on the file of the District Consumer Disputes Redressal Forum, Tiruvarur, is the appellant herein. His case was as follows: THE complainant borrowed a sum of Rs. 30,000 on 3.3.1999 from the opposite party, O. No. 70, Tiruvarur, Nagai District Government Servants Co-op. Thrift and Credit Society. Out of Rs. 30,000, his share capital of Rs. 5,000 and thrift savings of Rs. 3,610 were deducted and the balance paid to him. Towards the loan, the complainant had paid Rs. 35,000. Out of this Rs. 35,000, a sum of Rs. 27,000 had been shown as interest and only Rs. 8,000 had been credited towards principal. Before the present transaction, the complainant had paid Rs. 2,440 towards his share capital. No dividend was paid for the share capital till the date of filing of this complaint. THE complainant wrote to the oposite party on 31.10.2002 calling upon the opposite party to adjust his dividend, share capital, thrift savings, etc. from the loan amount payable by him. THEre was no response from the opposite party. THE complainant sent a petition to the Collector on 18.12.2002. THE Deputy Registrar of Co-operatives, Tiruvarur sent a reply on 27.12.2002, but the contents were not acceptable to the complainant. THE complainant appealed to the Nagi District Legal Services Authority on 4.3.2003. When the matter came up before the Nagi District Legal Services Authority on 4.3.2003. When the matter came up before the Nagai District Legal Services Authority on 29.7.2003, the opposite party agreed to deduct the amounts payable to the complainant from the amount due from him. THE complainant met the opposite party on 25.8.2003. THEre was no proper

response. On 26.9.2003, the opposite party attended the Nagai District Legal Services Authority inquiry. THE opposite party represented that the complainant had not come to them at all, that they were ready and willing to pay his share capital, share of profits, thrift savings deposit amount, etc. Based on that, the Nagai District Legal Services Authority issued an order on 11.10.2003. THE opposite party did not obey the said orders. In such circumstances, the complaint came to be filed calling upon the opposite party to act as per the terms of the letter dated 26.9.2003 given by the Special Officer and pay Rs. 8,000 towards compensation for mental agony.

2. THE opposite party resisted the complaint contending inter alia as follows : THE complainant had borrowed Rs. 15,000 on 23.11.1995. THE share capital was Rs. 2,490 and towards thrift savings deposit a sum of Rs. 1,680 was in his account to his credit. THE complainant ought to have repaid the loan by 28.11.1998. THE complainant did not repay in time. He repaid only after a lapse of time. THE Society was running at a loss till 1996-97. THE share holders were therefore not paid any dividend. On 3.3.1999, the complainant borrowed a sum of Rs. 30,000. While paying the loan amount, apart from the original share capital of Rs. 2,490 another sum of Rs. 2,510 was taken as share capital, in all Rs. 5,000. Towards thrift deposit savings there was a sum of Rs. 2,630 available till 27.11.2002. For the said loan, till 8.7.2003, the complainant had paid Rs. 9,443 towards principal and Rs. 20,557 towards interest. THEre was still a balance of Rs. 20,557 towards principal payable by him. Since the complainant did not pay in 36 monthly instalments, penal interest had to be charged in his account. As he did not repay the loan amount in time, in the arbitration proceedings before the Tiruvarur Circle Co-operative Deputy Registrar in Order No. 272/2000-2001 dated 12.8.2000, decision had been rendered against the complainant. When the matter was enquired into by the Nagai District Legal Services Authority, the opposite party had informed that Authority that when the complainant settled the amounts, his share capital and the thrift savings amount would be adjusted. THE complainant never came forward to repay the laon amount. With a view to stall the execution proceedings against him pursuant to the order passed by the Tiruvarur Circle Co-operative Depspute Registrar, the present complaint had been filed. On the side the the complainant, Exs. A-1 to A-5 were marked. No documents were marked on the side of the opposite party.

The District Forum, on consideration of the materials on record, on 11.5.2004, passed the following order : (1) The opposite party had to furnish a statement of account to the complainant with regard to his share capital, thrift deposit savings, interest relating to the same and the debt repayable by the complainant, within two weeks from the date of the order; (2) The amount thus found due from the complainant was to be repaid by him within one week therefrom; (3) and (4) If there was any dividend available for payment, the same had to be paid to the complainant; (5) Parties have to bear their respective costs. It is an against that the present appeal has been filed.

3. THE District Forum, while arriving at the said decision, had considered all the points in dispute and found that it was incumbent on the part of the opposite party to have provided the complainant with a proper statement of account; that the mere fact that he did not attend the office of the oposite party on 26.7.2003 would not disentitle him to receive such statement of accounts; that when the complainant himself was about to clear the debts and settle the account, it was deficiency in service on the part of the opposite party in not furnishing the particulars. However, the District Forum accepted the case of the opposite party that the profit and loss account was audited only in the year 2003 and till 1996-97 the Society was running at a loss, that there was no dividend available for payment to the complainant or any other share holder; that inasmuch as the complainant had not repaid the loan, proceedings had been initiated under Section 90 of the Co-operative Societies Act which ended against the complainant. Whatever it is, the ultimate order passed by the District Froum, in our view, appears to be correct. THE grievance of the complainant, in our view, is not justified. THE order of the District Forum still stands and we take it that as per the directions of the District Forum the opposite party had furnished the details to the complainant. THE District Forum has rightly held that both parties were at fault and, therefore, the complainant was not entitled to be paid any compensation. Having regard to what is stated above, the appeal is dismissed confirming the order passed by the District Forum. However, there will be no order as to costs in the appeal. Appeal dismissed.