(1991) 01 NCDRC CK 0015

In the National Consumer Disputes Redressal Commission

N.RAVENDRAN NAIR APPELLANT

Vs

Branch Manager, State Bank of India RESPONDENT

Date of Decision : 08-01-1991

Acts Referred:

Citation : 1991 1 CPJ 648

Hon'ble Judges : G.Balagangadharan Nair , R.Ramachandran Nair , C.G.Sethu Lakshmi J.

Final Decision : Appeal allowed

Judgement

1. THE complainant in this case is a business man who is the proprietor of Elankath Enterprises, Venganoor P.O. Thiruvananthapuram. He is engaged in wholesale business in textiles. He purchases textiles direct from the manufacturers and distributes them to the retailers. His case is that on 12.5.1990 he remitted a sum of Rs. 98,000/- at the State Bank of Travancore, Venganoor Branch and obtained a demand draft No. 976023 payable at the State Bank of India, Surat Branch, Gujarat. With this demand draft he went to Surat for purchasing textile goods in the belief that the demand draft could be encashed there. THE complainant obtained the demand draft in order to avoid theft and loss while travelling.

2. ON 21.5.1990 the demand draft was presented before the opposite party. But the opposite party refused to honour the same. When requested to pay the amount, the opposite party issued a dishonour memo to the complainant. As a result, the complainant could not purchase the goods for which he went to Surat. Consequently he could not supply the articles to his customers as promised, thereby the credibility of the complainant as a reliable business man was damaged. For this the complainant claimed a compensation of Rs. 50,000/-. Further he claimed a sum of Rs. 10,000/- as loss of profit. The complainant was stranded at a far off place, penniless. He was forced to trace out some friends there and arrange some money for his return. He had to spend Rupees five thousand for his journey and slay at Surat. The complainant was put to menial

agony and he claimed a sum of Rs. 50,000/- as damages for the pain and mental agony. Thus a total sum of rupees one lakh fifteen thousand is claimed by the complainant as compensation. The opposite party filed its version admitting that the complainant had presented the demand draft for an amount of Rs. 98,000/-; The opposite party however contented that although the demand draft bore the signatures of two officials of the issuing branch, the specimen signature number of one of these officials was missing. ''As per instructions laid down by the State Bank of India in view of the Reserve Bank of India directives and to prevent incidence of frauds and malpractices the demand draft for more than Rs. 50,000/- requires signatures of two officials of the issuing branch with their specimen signature numbers''. In the absence of these the paying Bank can refuse to honour such instruments. Therefore following the above instructions the demand draft presented by the complainant was dishonored as the same was not bearing the signature number of one of the officials of the issuing branch under his signature on the instrument as per practice. According to the opposite party the dishonor was not done with any malafide intention to harm the complainant. It was done in good faith and the Bank is not liable to pay any damages as there was no negligence on the part of the Bank. The dishonour was done in accordance with the rules and regulations laid down as per Reserve Bank of India guidelines. The opposite party has no other contentions. A reply was filed by the complainant to the. submission made by the opposite party.

Complainant has adduced oral evidence and P.W. 1 and PW2 were examined on his side. PW1 is the complainant himself and PW2 is the Branch Manager of the State Bank of Travancore, Venganoor Branch. Neither of them was cross examined. The complainant has also produced Exhibit: PI to P4. Exhibit P1 is the dishonour memo of the Surat branch of State Bank of India, Exhibit P2 is the letter dated 18.6.1990 from the State Bank of India, Surat branch to the complainant. Exhibit P3 is another letter dated 20.6.1990 from the State Bank of India, Surat branch to the complainant and Exhibit P4 is the photostat of the Demand Draft. No oral or documentary evidence was given by the opposite party. Opposite party did not appear in person or through counsels before this Commission. It sent its version through post

3. THE main issues to be decided in this case are (i) whether the dishonour of the demand draft by the opposite party was wrongful. (2) Whether the service rendered by the opposite party was defective.? (3) Whether the complainant had suffered any loss due to the defective service of the opposite party and is he entitled to any compensation? In the version filed by the opposite party before this Commission it is clearly admitted that the complainant, Sri. N. Raveendran Nair had presented the demand draft for an amount of Rs. 98,000/- issued by the State Bank of Travancore, Venganoor Branch before the State Bank of India, Surat for payment. The complainant produced a photostat copy of the demand draft before this Commission and it is Exhibit P4. Exhibit P1 is the dishonour memo issued by the State Bank of India, Surat Branch. In that memo the reason for dishonour of the draft is shown in item No. 24 thus, "S.S. No. of the 2nd

officials signature required". Exhibit P4 bore signature of two officials of the State Bank of Travancore, Venganoor Branch, which is the associate Bank of the opposite party. But the specimen signature number of one of the officials was not recorded on it. In its version the opposite party affirms, "As per laid down instructions of the State Bank of India in view of the Reserve Bank of India directives and to prevent the incidence of frauds and malpractices, the demand draft for more than Rs. 50,000/- requires signatures of two officials of the issuing branch with their specimen signature numbers. In the absence of these the paying branch can dishonour such instruments". But the opposite party failed to prove the existence of such instructions of the State Bank of India in accordance with the Reserve Bank of India directive. Even if this is proved, it is beyond doubt that the defaulter omission alleged by the opposite party is committed by the officials of the associate Bank of the opposite party and for that in any way the complainant is not responsible.

4. BESIDES that, the complainant is not aware of any of these instructions and directions as they are only internal arrangements and he is not bound by these. PW2 Mr. Ravindakshan Nair, Branch Manager, State Bank of Travancore, Venganoor Branch in his deposition stated that the internal arrangements of a bank are not intimated to the customers. To quote him, "Bank internal arrangements customers intimate". So it is beyond doubt that the complainant is not aware of the internal arrangements in the Bank and he is not bound by such internal arrangements. It was argued by the Counsel for the complainant that the demand draft can be dishonoured only on the ground of suspicion regarding the identity of the person who presents the instrument. PW2 the Branch Manager of the State Bank of Travancore affirms this fact in his deposition as under. "Draft issue. Present identification draft dishonour. There is no dispute regarding the identification of the complainant. There is no allegation against the complainant that he had committed any fraud or the demand draft was obtained fraudulently. So far, the omission or default on the part of the employee of a Bank should a customer suffer?

5. THIS Commission feels that there is a lapse regarding the absence of the specimen signature number of one of the Bank officials. At the same time we find that both the officials had put their signatures on the demand draft and the specimen signature number of one of the officials was also inserted. But one of the officials made a slip to put his signature number under his signature. We are of the strong opinion that for an omission committed by one of the employees of a Bank a customer should not suffer. A demand draft is an instrument issued by one branch of a Bank to another branch or to the branch of an associate Bank. If there has been a lapse or an omission, committed by the officials of the Bank, it has to be settled between then and for that a customer should not be taken to task or put to difficulties. THIS is a case where a draft has been dishonoured for the lapse or omission on the part of the Bank. In these circumstances we find that the dishonour of the draft made by the opposite party is wrongful.

6. DUE to the wrongful dishonour of the demand draft the complainant was stranded at a very far off place from his home and it resulted in loss, mental agony and hardship to him. The complainant is a young man who is trying to make his livelihood by venturing to do textile business. A Bank should have offered all help and encouragement to him. But unfortunately in this case he had to suffer for the lapse on the part of the Bank and the paying Bank seems to have scant regard for this aspect. Bank constitutes an integral and inevitable service sector for smooth conduct of business. They are supposed to render vital service to the society. They must be always alert to the interest of their customers. The primary duty of a Bank is to safeguard and protect the interest of their customers. If some inconveniences were caused to a customer due to the omission, negligence or default of a Bank, there is a severe breach of duty on the part of a Bank. Hence in this case there is no doubt that the service rendered by the opposite party is a defective service according to the Consumer Protection Act Now the next question to be decided is whether the complainant had suffered any loss due to the defective service of the opposite party.

The complainant claims a total sum of Rupees one lakh and fifteen thousand as compensation under different heads. Due to the wrongful dishonour of the demand draft by the opposite party the complainant was forced to stay at Surat till some friends were traced out to help him to return. Till that time the complainant was put to mental agony and pain. He claims Rs. 50,000/- as damages for the pain and mental agony to which he was put. There cannot be any doubt that he had suffered mental worry and strain when he was stranded at a far off place penniless. For this the Bank is bound to compensate him and we think that in the circumstances of the case the Bank should pay Rs. 2,500/- as compensation.

7. AGAIN a sum of Rs. 50,000./- was claimed as damages for the loss of business credibility of the complainant. His business is to purchase textiles direct from the manufacturers and supply it to the retailers. He went to Surat for purchasing textiles with the demand draft in the honest belief that it would be encashed in time. We believe that due to the dishonour of the demand draft the complainant could not purchase the goods and supply it to the customers as promised. So we come to the conclusion that due to the defective service rendered by the opposite party he had lost his business credibility and goodwill to some extent and for which the opposite party is liable to compensate the complainant and we think that for this the Bank should pay the complainant Rs. 5,000/- as compensation. Further the complainant had claimed an amount of Rupees Ten Thousand as loss of profit. This works out only to 10% of the amount for which he would have purchased textiles from Surat had the State Bank of India, Surat branch honoured the draft. This is only a normal rate of profit in textile business. So, we allow this amount Rupees Ten Thousand under this head.

8. THE complainant claimed an amount of Rs. 5,000/- for the expenditure met by him for the to and fro journeys and stay at Surat. It is an admitted fact that the

complainant went to Surat in person and presented the demand draft in the Bank. We have no doubt that he should have incurred expenses for the fruitless journey and stay at Surat. So we think that this expenditure must be compensated by the Bank. So we direct the opposite party to pay Rs. 1,500/- to the complainant under this head. We order the opposite party to pay the complainant his costs which we fix at Rs. 500/-. Thus the opposite party will pay a total sum of Rs. 19,500/- including the compensation and costs. In default, the Manager of the Bank in charge of the State Bank of India, Surat will suffer imprisonment for one month. Appeal allowed.

