(2013) 09 NCDRC CK 0077

In the National Consumer Disputes Redressal Commission

ORIENTAL BANK OF COMMERCE — APPELLANT

Vs

Dev Raj Mahajan — RESPONDENT

Date of Decision : 13-09-2013

Acts Referred:

Citation : 2013 0 NCDRC 649 : 2013 4 CPJ 400 : 2013 4 CPR 197

Hon'ble Judges : K.S.CHAUDHARI , B.C.Gupta J.

Final Decision : Petitioner is allowed

Judgement

1. THIS revision petition has been filed by the petitioners/OP against the order dated 18.12.2012 passed by the State Consumer Disputes Redressal Commission, UT Chandigarh (in short, ''the State Commission '') in Appeal No. 344/2012 - Oriental Bank of Commerce Vs. Dev Raj Mahajan & Anr. by which, while dismissing appeal, order of District Forum allowing complaint was upheld.

2. BRIEF facts of the case are that complainants/respondents obtained two FDRs for a sum of Rs.10,000/- each on 14.1.2002 from OP No. 2-Global Trust Bank Ltd. for 10 years with the maturity value of Rs.26,203/-. OP No. 2 merged with OP No. 1-Petitioner and all the assets and liabilities were taken over by OP No. 1. On maturity, complainant approached to OP No. 1 and complainants were paid Rs.20,466/- against each FDR, whereas maturity value of FDRs was Rs.26,203/-. Alleging deficiency on the part of OP, complainants filed complaint before District Forum. OP No. 1 admitted issuance of FDRs and merger of OP No. 2 with OP No. 1, but submitted that maturity value was generated on the basis of interest payable by OP No. 1 as per notification issued by the Ministry of Finance dated 13.8.2004. It was further submitted that OP No. 1 also informed all the customers of Global Trust Bank Ltd. vide letter dated 13.9.2004 about rate of interest. OP has not committed any deficiency in service and prayed for dismissal of complaint. OP No. 2 was proceeded ex-parte. After hearing both the parties, learned District Forum allowed complaint and directed OP No. 1 to refund Rs.11,474/- of two FDRs along with 9.75% p.a interest and awarded Rs.10,000/- as compensation. Appeal filed by the petitioner was dismissed by learned State

Commission vide impugned order against which this revision petition has been filed. Heard learned Counsel for the petitioner and Respondent No. 1 in person and perused record.

3. LEARNED Counsel for the petitioner submitted that payment was made on maturity of FDRs in accordance with notification issued by Ministry of Finance and intimation about change of rate of interest was also given to the respondent; even then, learned District Forum has committed error in allowing complaint and directing petitioner to pay difference of amount and learned State Commission further committed error in dismissing appeal; hence, revision petition be allowed and impugned order be set aside. On the other hand, respondent submitted that he has not received any intimation about change of rate of interest and order passed by learned State Commission is in accordance with law; hence, revision petition be dismissed.

4. IT is admitted case of the parties that respondent obtained two FDRs from Global Trust Bank Ltd. for a sum of Rs.10,000/- each for 10 years with the maturity value of Rs.26,203/- and Global Trust Bank Ltd. merged with petitioner. It is also not disputed that petitioner made payment of Rs.20,466/- against each FDRs and maturity value shown in the FDRs issued by Global Trust Bank Ltd. was not made. Now, the question to be decided is whether; petitioner has committed any deficiency in reducing maturity amount. Learned Counsel for the petitioner submitted that interest has been paid on the FDRs as per notification issued by Ministry of Finance dated 13.8.2004. He further submitted that information regarding rate of interest was also given by the petitioner to all the customers of Global Trust Bank Ltd. vide letter dated 13.9.2004. Respondent submitted that he has not received any intimation from the petitioner about change of rate of interest and had he received this intimation, he would have taken pre-mature payment of FDRs and invested it somewhere else. Petitioner in its written statement submitted that intimation regarding change of rate of interest was given to all the customers of Global Trust Bank Ltd. and respondent has not filed replica to deny this fact. In such circumstances, it cannot be presumed that intimation about change of rate of interest was not given by the petitioner to respondent and other customers of Global Trust Bank Ltd. Learned State Commission has committed error in holding that petitioner was required to prove service of notice on every individual and complainants.

5. LEARNED Counsel for the petitioner has placed reliance on judgment delivered by this Commission in R.P. No. 2952 of 2006 - Bank of Baroda, Uttar Pradesh Vs. Parul Agarwal and others decided on 1.9.2010. In that case, Banaras State Bank Ltd. merged with Bank of Baroda and FDR issued by Banaras State Bank Ltd. depicting maturity value of Rs.1,34,490/- was not paid by the Bank of Baroda and on maturity, Bank of Baroda paid Rs. 93,841/-. This Commission held that Bank of Baroda acted in accordance with the scheme formulated by the Government of India under the Statute after due notification which was in public interest and specifically in the interest of its depositors to ensure minimum loss

of money to them and there was no deficiency on the part of Bank of Baroda and order passed by District Forum and State Commission allowing complaint was set aside. In the aforesaid case, petitioner also did not give any notice about merger. On the other hand, in the case in hand, respondent himself admitted in complaint that merger was effected between OP No. 1 and OP No. 2 and in such circumstances, even if individual notice has not been received by the respondent regarding reduction of rate of interest on FDRs, petitioner has not committed any deficiency in reducing maturity value in accordance with notification issued by Ministry of Finance dated 13.8.2004 and scheme of amalgamation of Global Trust Bank Ltd. with the petitioner.

6. LEARNED State Commission has committed error in dismissing appeal and learned District Forum has committed error in allowing complaint and awarding difference of interest and complaint is liable to be dismissed. Consequently, revision petition filed by the petitioner is allowed and impugned order dated 18.12.2012 passed by learned State Commission in Appeal No. 344 of 2012 - Oriental Bank of Commerce Vs. Dev Raj Mahajan and Anr. is set aside and complaint filed by the respondents stand dismissed. There shall be no order as to costs.

