(1996) 11 NCDRC CK 0040

In the National Consumer Disputes Redressal Commission

POST MASTER GENERAL OF RAYAGADA APPELLANT

Vs

RUBEEN SANKAR PATTY OF RAYAGADA RESPONDENT

Date of Decision : 14-11-1996

Acts Referred:

Citation : 1997 1 CPC 551 : 1997 1 CPJ 447

Hon'ble Judges : P.C.Misra , Biswanath Rath , Mrinalini Padhi J.

Final Decision : Appeal dismissed

Judgement

1. THE opposite parties in C.D. Case No. 201 of 1994 of the District Forum, Rayagada are in appeal against the final order passed in the said case. THE present respondent as complainant filed the aforesaid case alleging deficiency in service on the part of the Postal Department. His case is that his wife late Srimati Sarangi who was the Headmistress of Upper Primary School, Gorakhpur had a Teacher''s Provident Fund Account in Kasipur Post Office. Such account was to be controlled by the Block Development Officer of Kasipur. THE said account was operated till 4.7.84. THEreafter the amount available in the said account was to be deposited in the General Provident Fund Account for which an intimation was given to the Post Office by the Block Development Officer. But that money was withdrawn from the Post Office on 6.1.88. By 4.7.84, the amount deposited together with interest amounts to Rs. 5106.95p. But when the money was withdrawn from the said account to be deposited in the Provident Fund Account, the Post Office did not grant any further interest on the said amount from 4.7.84 to 6.1.88. THE complainant made a grievance before the Postal Authorities but no effective action was taken by the latter. He also approached the Dak Adalat. But there was no decision by the said Adalat on the point at issue. He approached the District Forum claiming interest accruing on the aforesaid amount of Rs. 5,106.95 upto 6.L88 and also interest thereon till the date of payment alleging that had the said interest upto 6.1.88 been released by the Post Office, it could have been deposited in his Provident Fund Account earning more interest and at a higher rate. It may be mentioned that the wife of the complainant died on 21.6.93 and the complainant as the nominee of his wife has

filed this claim. THE opposite parties did not dispute the factual aspects as stated above. But it was stated by them that the account was closed at the request of the depositor, that is, the Block Development Officer on 24.1.87 and thereafter the interest was added with the principal deposit and was made available to be withdrawn from the said account. Neither the complainant nor the B.D.O., Kasipur withdrew the amount and it was lying in the Post Office till 6.1.88 when the amount was withdrawn. In the aforesaid circumstances, they claim that they are in no way liable for payment of interest on the aforesaid amount after the closure of the account in 1987/88. THEy also took the plea that Savings Account Rules of the Postal Department provide that no interest will be payable after expiry of six months from the first day of the month in which the order, or, as the case may be, the authorization for the final withdrawal of the balance at credit is issued by the authority controlling the fund. Thus, non-payment of interest was in accordance with the said rules.

2. THE District Forum after considering the case of both parties, came to a conclusion that the Post Office has become non-responsive and had shown indifferent attitude when the complainant lodged a claim for interest and they are guilty of deficiency in service. THE District Forum also held that the complainant was entitled to interest, but allowed interest upto the date of withdrawal of the said amount on 6.1.88 quantifying the same to be Rs. 1041.65 p. and awarded a cost of Rs. 1,000/- to be paid to the complainant. In appeal the learned Counsel for the appellants strenuously argued that since the rule does not permit payment of interest on an account of this nature, after authorization for final withdrawal of the balance at credit is due by the authority controlling the fund, the postal authorities were justified in not allowing interest after the closure of the account. Our attention was also invited to the relevant rule which is quoted below for reference. Rule 6(6) "No interest shall be allowed on an account opened by any Provident Fund, Superannuation Fund or Gratuity Fund in the name of a member after the expiry of six months from the first day of the month in which the order, or as the case may be, the authorization for final withdrawal of the balance at credit is issued by the authority controlling the Fund: (Savings Account Rules) We required to see as to what the controlling authority, namely, the Block Development Officer, Kasipur, had written to the postal authorities in order to appreciate as to whether it amounts to an authorization for final withdrawal of the balance at the credit. But the same was not available in record. Apparently the same if any was not produced before the District Forum nor it has been produced before this Commission in appeal. The Pass Book of the Savings Bank Account, a Xerox copy of which is available in the records of the Court below, was also perused by us. The original of the Pass Book was shown to us by the complainant-respondent and we find that the xerox copy available in the record is a true copy of the original. The Pass Book indicates that the account stood closed on 6.1.88 and an endorsement has been made in the Pass Book to the same effect both on the cover page as well as after the last transaction was made on 6.1.88. The stand taken by the present appellants before the District

Forum in their show cause was that the account was closed on the request of the depositor, meaning the controlling authority, that is, the Block Development Officer, Kasipur dated 24.1.87 and supported by sanction of the controlling authority on 6.1.88. On 6.1.88, an amount of Rs. 5,106.95p including interest was paid to the Block Development Officer on the same day, that is, 6.1.88 as authorised by the depositor. In the Pass Book, an endorsement has been made to the following effect:

"Sanctioned on 24.12.87, vide D.I. of Schools Memo No. 1546 dated 5.4.84." There is no endorsement any where either in the Pass Book or in any other document produced before us to indicate that the account stood closed pursuant to the letter of authorization dated 24.1.87. One of the arguments which was advanced by the learned Counsel on behalf of the appellants was that as the Pass Book was in possession of the depositor, no endorsement could be made simultaneous to the closure of the account in 1987 and, therefore, non-endorsement to the above effect in the Pass Book is of no consequence. In such event, it was necessary for the appellants to produce contemporaneous records maintained by the Post Office to show that pursuant to the request of the depositor, the account stood closed from any particular date. That apart, admittedly, the Pass Book was produced on 6.1.88 when the withdrawal was permitted from the account. On that date, if the account stood closed with effect from, 1984, the endorsement made on that date should have reflected that the account was not in operation from the date of closure in 1984. For the aforesaid reasons, we are unable to accept the plea taken by the Postal Authorities that the account stood closed from the year 1984, as a consequence of which no interest would be payable as per the rules. If the account was not closed then the depositor is entitled to the interest till the date of closure of the account which is 6.1.88. As per the calculation given by the District Forum, interest upto that date on the amount in deposit was Rs. 1041-65 p. But it is apparent from the facts stated above that had the said amount been paid to the depositor on 6.1.88, it could have been deposited in the Provident Fund Account of the complainant''s wife and she could be benefited by interest payable on that account. In addition to the interest allowed by the District Forum in favour of the complainant, it may be that the complainant was entitled to interest thereafter as his wife was deprived of the benefit of the said amount had it been deposited in her G.P.F. accounts. But it appears that the complainant got satisfied with the award of the District Forum and did not choose to prefer any appeal or cross-appeal before the State Commission. It would, therefore, be unnecessary to further probe into the matter as to whether the complainant would be entitled to more than what has been awarded in his favour. It has also been argued by the learned Counsel appearing for the appellants that the District Forum was not justified in awarding cost of Rs. 1,000/- in favour of the complainant. It appears to us that the complainant had been running after the postal authorities with his grievances for interest during the aforesaid period. But the postal authorities were not responsive. We, therefore, do not want to interfere with the direction of the District Forum awarding Rs. 1000/- (Rupees one thousand) as costs. In the result, we do not find any merit in this appeal and hence dismissed. Appeal dismissed.