(2015) 07 NCDRC CK 0098

In the National Consumer Disputes Redressal Commission

Case No : 1306 of 2015

PUNJAB NATIONAL BANK & ANR — APPELLANT

Vs

POONAM MAHESHWARI — RESPONDENT

Date of Decision : 02-07-2015

Acts Referred:

Consumer Protection Act, 1986, Section 21, Section 19, Section 15, Section 17 - Jurisdiction of the National Commission - Appeals - Appeal - Jurisdiction

Citation : (2015) 07 NCDRC CK 0098

Hon'ble Judges : J.M. Malik

Advocate : Ajay Shanker, Saroj Kumar Singh

Judgement

1. The State Commission dismissed the appeal on the ground that there was a delay of 201 days in filing the appeal before it by the Punjab National Bank on 29.09.2010. Ms. Punam Maheshwari, the complainant deposited one cheque in the sum of Rs.50,000/- for collection in her aforesaid savings account at Punjab National Bank, Kotwali Road, Sikar. The said cheque was issued by office Aryarup Tourism and Club Resorts Pvt. Ltd., which was valid for 6 months from the date of issue. The Bank did not collect this amount and validity period of the cheque expired. The Punjab National Bank did not appear before the District Forum and the District Forum allowed the complaint and directed the Bank to make payment of cheque amount to Rs.50,000/- within one month and also make payment of Rs.2,000/- compensation and Rs.1,000/- for litigation expenses.

2. In the delay application moved before the State Commission, the appellant explained that the concerned Manager has retired, therefore, the Bank could not appear before the District Forum. According to the State Commission, it was a lame excuse. It also noted that the Bank was served through Registered A.D. and the Bank is a Nationalized Bank, therefore, it was difficult to accept the reason, as satisfactory.

3. The Bank has filed this Revision Petition in this regard. It is contended that in the case of "Manoharan Vs. Sivarajan & Ors." in Civil Appeal No. 10581 of 2013 decided on 25.11.2013 by his Lordship Justice V.Gopala Gowda, the delay was condoned and the Hon''ble Supreme Court had placed reliance on a number of authorities. However, the counsel for the petitioner admitted that the said case was not under the Consumer Protection Act. He, however, contended that to decide the matter in accordance with Law, opportunity should be granted to the Punjab National Bank.

4. I am of the considered view that there is a huge delay in filing the First Appeal before the State Commission. The C.P. Act is a special Act and the period is fixed for deciding appeals and revision petitions by the Act itself. Particularly, the case of Anshul Aggarwal v. New Okhla Industrial Development Authority, IV (2011) CPJ 63 (SC), neatly dovetails with the view taken by the State Commission. It must be borne in mind that due to bizzare conduct of the Bank, the Bank does not deserve any sympathy. The Bank has acted arrogantly and there is no reason why they could not appear before the District Forum. The Bank Manager is supported by a number of other employees and the concerned person, who is dealing with the account of the complainant should have been vigilant and prompt in expediting the payment of the cheque. The cheque was wrongly sent to another place. It clearly shows negligence, inaction and passivity on the part of the Bank officials. The bank officials are terribly remiss in the discharge of their duties. The retirement of one Bank Manager does not bring the business of the Bank to an end. The Rule that "King is dead and live long the king" has to be followed in each and every department. The following authorities go to neatly dovetail with the above said view.

5. In Anshul Aggarwal v. New Okhla Industrial Development Authority (Supra) , a case under the C.P. Act itself, it was held "It is also apposite to observe that while deciding an application filed in such cases for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986 for filing appeals and revisions in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if this Court was to entertain highly belated petitions filed against the orders of the Consumer Foras".

6. Similar view was taken in R.B. Ramlingam v. R.B. Bhavaneshwari, I (2009) CLT 188 (SC), Ram Lal and Others v. Rewa Coalfields Ltd ., AIR 1962 Supreme Court 361, Office of the Chief Post Master General & Ors. Vs. Living Media India Ltd. & Anr. [2012] 1 SCR 1045 & Bikram Dass Vs. Financial Commissioner and others, AIR, 1977 SC 1221.

7. The latest view was taken by the Apex Court in the case "Sanjay Sidgonda Patl Vs. National Insurance Co. Ltd. & Ors." , decided by the Apex Court while dismissing the Special Leave to Appeal (Civil) No. 37183 of 2013, decided on 17.12.2013, upholding the order of this Commission wherein delay of 13 days was not condoned.

8. Similar view was taken by the Apex Court while dismissing the Special Leave to Appeal (Civil) No. 33792 of 2013 in Chief Officer, Nagpur Housing & Area Development Board & Anr. V. Gopinath Kawadu Bhagat, decided on 19.11.2013, upholding the order of this Commission where 77 days delay was not condoned and again delay of 78 days was not condoned in the case reported in M/s Ambadi Enterprises Ltd. Vs. Smt. Rajalakshmi Subramanian , in Special Leave to Appeal (Civil) No. 19896 of 2013 decided on 12.07.2013.

9. Last but not the least in the case of " M/s Jeevan Diesels Electricals Ltd. & Anr. Vs. Popular vehicles & Services Ltd.", Special Leave to Appeal (Civil) No. 22240-41 of 2014, decided on 25.08.2014 by the Bench of Supreme Court presided over by Justice Mr. V. Gopala Gowda, confirmed the order of this Commission by not condoning the delay of 108 days. That case was decided under the Consumer Protection Act.

10. Again this case entails a very meagre amount. The petitioner has demanded compensation in the sum of Rs.1,00,000/- in her complaint but he was given a sum of Rs.2,000/- only and she was awarded litigation charges in the sum of Rs.1,000/- only, which is a very small amount. The summoning of the complainant in this petty case will entail a lot of amount. Petitioner must have spent more than what is awarded to the complainant for this case.

11. There is no need to interfere with the order passed by the Fora below. The Revision Petition is hopelessly barred by time and therefore, the same is dismissed.