(2015) 04 NCDRC CK 0014

In the National Consumer Disputes Redressal Commission

PUNJAB NATIONAL BANK — APPELLANT

Vs

Akhilesh Kumar Sinha — RESPONDENT

Date of Decision : 01-04-2015

Acts Referred:

Citation : 2015 2 CPR 578

Hon'ble Judges : J.M.MALIK , S.M.Kantikar J.

Final Decision : Petition dismissed

Judgement

1. THE appeal filed by the petitioner Chief Manager, Punjab National Bank, Kankarbagh, Patna was dismissed in default on 14.03.2014. Prior to that the appellant did not appear on 05.12.2013. However, the learned Counsel for the Complainant/respondent Sh. Akhilesh Kumar Sinha undertook to inform the petitioner/appellant about the next date. On the next date, both the advocates appeared but the appellant again defaulted and did not appear on 14.03.2014.

2. THEREAFTER , without any legal remedy available under the Consumer Protection Act, the Bank moved an application for restoration before the State Commission. The same was dismissed by the order dated 14.12.2014 in view of the Apex Court''s order in the case of "Rajeev Hitendra Pathak and Ors. Vs. Achyut Kashinath Karekar and Anr., 2011 9 SCC 541]" , dated 19.08.2011and Lucknow Development Authority Vs. Shyam Kapoor, 2013 2 SCC 754.

3. CONSEQUENTLY , after the delay of 387 days, this Revision Petition was filed. Petitioner has moved an application for condonation of delay and delay has been explained in para No. 5 of the application for condonation of delay, which runs as follows: - "05. That the Petitioner has been actively and diligently pursuing the above Restoration Application in bonafide belief before Hon''ble State Commission that the Hon''ble State Consumer Dispute Redressal Commission, Bihar at Patna is competent to review, modify and to recall its order of dismissal in default for non -prosecution by Petitioner".

It must be borne in mind that there is no provision in the whole Act for the review of the order by the State Commission. The Act has crystalline clarity. Furthermore, the Apex Court in the Case of "Rajeev Hitendra Pathak and Ors. Vs. Achyut Kashinath Karekar and Anr." had clarified the position further in the year 2011. The review application was filed in this case in March 2014. It is difficult to fathom why the petitioner/OP wants to delay the case unnecessarily. The calculation made by the Registry is also not correct. There is a delay of 387 days from the pronouncement of the main order. The appeal was filed by the Bank and cause of action in this case arose in the year 2006 -2007. Almost 10 years have elapsed. It is well said that justice delayed is not only justice denied, it also justice circumvented, justice mocked and the system of justice undermined. The complainant is being harassed for the last about 8 -9 years. The case is barred by time and this view finds support from the following authorities.

4. IN Anshul Aggarwal v. New Okhla Industrial Development Authority, 2011 4 CPJ 63(SC), held that "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".

5. SIMILAR view was taken in R.B. Ramlingam v. R.B. Bhavaneshwari, 2009 1 CutLT 188(SC), Ram Lal and Others v. Rewa Coalfields Ltd., 1962 AIR(SC) 361, Office of the Chief Post Master General and Ors. Vs. Living Media India Ltd. and Anr., 2012 1 SCR 1045 and Bikram Dass Vs. Financial Commissioner and others, 1977 AIR(SC) 2221.

6. THE latest view was taken by the Apex Court in the case "Sanjay Sidgonda Patl Vs. National Insurance Co. Ltd. and 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.

7. 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 and Area Development Board and 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.

8. AGAIN there was 94 days delay in the case of M/s Christian Medical College Versus Oriental Insurance Company Limited in Civil Appeal No. 9707 of 2014, which was also not condoned vide order passed in First Appeal No. 777 of 2012 by the Apex Court vide order dated 10.10.2014.

9. THE Revision Petition is barred by time and therefore, the same is dismissed.

