
(2006) 05 NCDRC CK 0035

In the National Consumer Disputes Redressal Commission

PUNJAB STATE LOTTERIES

APPELLANT

Vs

State Bank of India

RESPONDENT

Date of Decision : 29-05-2006

Acts Referred:

Citation : 2006 3 CPJ 103

Hon'ble Judges : B.K.Taimni , P.D.Shenoy J.

Final Decision : Ordered accordingly

Judgement

1. APPELLANT was the complainant before the State Commission, where he had filed a complaint alleging deficiency in service on the part of the respondents.

2. VERY briefly the facts of the case are that the respondent No. 2 was the agent of the complainant in respect of lottery titled "Punjab Baisakhi Bumber - 1996 Lottery Scheme". The second respondent lifted large number of tickets for which post-dated cheques were issued amounting to Rs. 12,45,000. These cheques were presented to the first respondent Bank where they seem to have been lost. No payment was made to the complainant hence a complaint was filed before the State Commission for asking for payment of Rs. 12,45,000 along with interest @ 24% p.a. Upon issue of notice it was contested by the Bank. After hearing the parties, the State Commission in its order's operating para observed as follows: ".....The aforesaid Bank on which the cheques were drawn has not been impleaded as one of the parties. At any rate, there are large number of questions of facts which shall require determination. The record of the local bank and of the Amritsar Bank shall require examination. Secondary evidence may also be required because it is an admitted case that the original cheques have been lost. In view of the multifarious issues, it is held that the complainant should approach the appropriate Court and with these observations, the complaint is disposed of."

Aggrieved by this order, this appeal has been filed before us.

We heard the learned Counsel for the appellants as also the Bank. After perusal of material on record, we are unable to satisfy ourselves that this is a case which

needs to be relegated to the Civil Court. The State Commission is headed by a High Court Judge and what we have to determine is the deficiency in service or otherwise and fix the tortious liability. In this regard, we like to draw the attention of the State Commission to the judgment passed by the Hon''ble Supreme Court in the case of Dr. J.J. Merchant & Ors. v. Shrinath Chaturvedi, III (2002) CPJ 8 (SC)=IV (2002) SLT 714=(2002) 6 SCC 635, wherein it is held that even complicated questions can be decided by the State Commission. In view of this judgment of the Hon''ble Supreme Court and in catena of judgment passed by this Commission, we are unable to sustain the order passed by the State Commission which is set aside. The case is remanded back to the State Commission to pass the orders on merits after following the procedure laid down in Section 13 of Consumer Protection Act, 1986 and giving both the parties opportunity to lead evidence/additional evidence, if it is so desired.

3. ALL the parties are directed to appear before the State Commission on 10.8.1996. Since this is an old case, the State Commission is requested to dispose of the case at the earliest preferably within 6 months from the first appearance before the State Commission. Ordered accordingly.