(1994) 01 NCDRC CK 0004

In the National Consumer Disputes Redressal Commission

PURUSHOTTAM NAGAR APPELLANT

Vs

ZONAL MANAGER, UCO BANK, JAIPUR RESPONDENT

Date of Decision : 10-01-1994

Acts Referred:

Citation : 1994 0 NCDRC 24 : 1994 1 CPC 272 : 1994 1 CPJ 162 : 1994 2 CPR 551

Hon'ble Judges : V.BALAKRISHNA ERADI , Y.KRISHAN , B.S.YADAV J.

Advocate : MEENAKSHI ARORA , V.K.SHALI

Judgement

1. THIS is an appeal against the order of 27th September, 1991 of the State Commission of Rajas than in Complaint Case No. 61 /90. For the disposal of this case we mention only the relevant facts.

2. THE appellant Purushottam Nagar at the relevant time was also the Director of the Rajasthan Hindi Granth Academy. He had a personal Saving Bank Account No. 2427/16 with the opposite party-Bank. The respondent-opposite party-Bank stayed the operation of this personal saving account on telephonic instructions from the State Government with effect from 8.2.1990. Written confirmation of the telephonic instructions was received by the opposite party-Bank from the State Government on 13th February, 1990.

3. FOR the understanding of this case, two credits into the S.B.A/c. No. 2427/16 of the appellant are relevant. Their details are given below: As per the telephonic instructions said to have been received from the State Government on 8.2.1990 itself, the credit of Rs. 1,10,278/- was reversed leaving a balance of Rs. 61,080/-.

4. MEANWHILE the appellant-complainant issued 7 cheques to various parties and those were dishonoured inasmuch as the operation of the account has been stayed by the Bank. The saving bank account had a credit of Rs. 61,080/- prior to the alleged irregular credit of Rs. 1,10,278/- by way of arrears of salary on the 8th August, 1992. Thus balance in the saving bank account has also got frozen in this process. One of the dishonoured cheques was returned to the complainant

with the remarks "A/c. under stay hence the operation suspended".

5. THE State Commission came to the finding that "the bank rendered deficiency in service to the complainant by staying operation of the account at the instance of the State Government and not permitting the complainant to withdraw the amount or by dishonouring of the cheques. The service which the Bank was expected to render to the complainant in regard to saving bank A/c. No. 2427/16, in our considered opinion suffered from deficiency within the meaning of Section 2(l)(g) of the Act. In any case, the Bank committed fault in the performance of the service and there was imperfection and shortcoming in its service. The Bank was not right and justified in staying the operation of the saving bank A/c. No. 2427/16. The complainant should be allowed to operate the account". However, it held that it could not grant the reliefs asked for by the complainant under Section 14 of the Consumer Protection Act viz. the direction for return of the amount and declaring the withdrawals and transfers made by the Bank from the personal account as illegal.

6. REGARDING the claim of damages, it held that "in the absence of any material to substantiate the claim for damages, the complainant was not entitled to any compensation whatsoever". After considering the reply of the respondent-Bank to the appeal and after hearing the Counsel for the parties, we find that the Bank had committed the following deficiencies in service to the appellant-complainant who was the customer of the bank. (i) The State Government had no authority and power to stay and suspend the operation of a personal bank account of the appellant-complainant. It is open to it to take administrative &c legal steps to recover any amount wrongfully paid to the complainant. (ii) The respondent-Bank gave no intimation to the appellant-complainant regarding the suspension of the operation of this bank account till 16th February, 1990. (iii) The credit entry made in the pass book on 8.2.1990 by the bank was declared to be unauthorised. Making of an authorised entry itself, if it was really unauthorised, would constitute deficiency in service. (iv) The balance of Rs. 61,080/- prior to the disputed credit of Rs. 1,10,278/-was also frozen. For this there was no justification whatsoever. (v) The appellant-complainant has pleaded that seven of his cheques were dishonoured and that the action of the bank was illegal in suspending the operation of his account and that in consequence he suffered mental agony, his prestige was lowered due to the bank''s deficient service and claimed damages of Rs. 15,000/-.

At the hearing Counsel for the bank could not explain as to the authority under which the respondent-Bank stayed the operation of the account of the appellant-complainant. If the arrears bills had not been drawn by the competent officer viz. Secretary, Department of Education and had been sanctioned instead by Special Secretary, in that Department, how did the bank entertain the bills in the first instance and what action it has taken against its officers for passing such a bill and also making the unauthorised credit entry in the pass book of the appellant-complainant. It is significant that the first arrear bill of Rs. 1.46 lacs credited on

13.1.1990 was also countersigned by the Special Secretary.

7. THE facts establish that the Bank had acted beyond its mandate. In fact it acted arbitrarily in freezing the saving bank account of the appellant-complainant and which resulted in the bouncing of his cheques and caused him loss of prestige and mental agony.

8. SINCE we have held that the reversal of the credit of Rs. 1,10,279/- had been irregular, it ipso facto follows that the original credit would automatically get restored to the A/c. Interest should be allowed at the rate applicable to Fixed Deposits of 3 years maturity on the bank account from the 8th February, 1990 till he is actually allowed to operate the A/c.

9. WE accept that the appellant has been put to considerable harassment and his prestige has suffered due to the actions of the Bank and is entitled to the compensation claimed viz. Rs. 15,000/-only.

10. THERE have been as many as six hearing in this case at the appeal stage and perhaps a number of hearings at the original stage also. A sum of Rs. 3,000/- be paid to the appellant as costs by the respondent-Bank.