(2013) 01 NCDRC CK 0005

In the National Consumer Disputes Redressal Commission

Rabin Kumar Chatterjee APPELLANT

Vs

ALLAHABAD BANK RESPONDENT

Date of Decision : 23-01-2013

Acts Referred:

Citation : 2013 2 CPJ 19

Hon'ble Judges : SURESH CHANDRA J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal has been filed by Sh. Rabin Kumar Chatterjee challenging the order dated 27.7.2012 passed by the State Consumer Disputes Redressal Commission, West Bengal, Kolkata (''State Commission'' for short) by which the State Commission dismissed the consumer complaint No. 18 of 2010 filed by the appellant before the State Commission. The facts of this case may be stated as under: The appellant carried on the business of tea trading being reseller of leaf tea (wholesale) under the name and style M/s. Rabin Kumar Chatterjee as the sole proprietor at North Kalinagar, District Nadia. His case is that on or about in 2007, he opened a cash credit account being No. CC 500279 having limit of Rs. 9 lakh with the respondent bank at Krishnanagar Branch. Subsequently, on or about the year 2008 this cash credit limit was enhanced to Rs. 20 lakh and the same was still continuing. Thereafter, the appellant felt necessity to obtain higher credit limit for running his business against added collateral securities including his dwelling house owned by his father Rahini Kumar Chatterjee. He, therefore, prayed the Branch Manager of the respondent bank to enhance the credit limit from Rs. 20 lakh to Rs. 60 lakh along with necessary documents. It is claimed by the appellant that the Branch Manager assured him of getting the enhanced credit limit. On 29.10.2009, the Branch Manager called his father and asked him to sign on certain blank papers. According to the Branch Manager, the same was required for preparing documents with regard to the enhancement of the credit limit. The said Rahini Kumar Chatterjee put his signature in good faith but later on came to know that it was a trick on the part of the Branch Manager. However, the Branch Manager informed the appellant that the credit limit was not

enhanced at all and the decision was conveyed accordingly. The appellant claims to have suffered a lot for non -enhancement of credit limit and thus filed a consumer complaint praying for direction to the OP Bank to pay the complainant a sum of Rs. 81 lakh as compensation for loss of goodwill of the business.

2. THE OP appeared and contested the case before the State Commission by filing its written statement denying and disputed all the material allegations starting, inter alia, that the complainant was never given any assurance on behalf of the OP Bank in regard to enhancement of the credit limit. In this respect, a letter was also issued on 17.2.2010 addressed to the complainant stating that for enhancement of the credit limit he will have to provide with additional/alternate security to safeguard and cover the advance or else it could not be considered. Further, the guarantor who happened to be owner of the mortgaged property had also expired. It was also submitted by the OP Bank that enhancement of the credit limit asked for by the complainant in this case fell within the power of the Zonal Office/Head Office and was beyond the discretionary power of the Branch Manager. Finally, it was submitted that any modification of the credit limit is a matter of sole discretion of the bank and hence there was no deficiency in service on the part of the OP Bank. On appraisal of the issues framed and the evidence adduced by the parties, the State Commission held that there was no deficiency in service on the part of the OP Bank and hence dismissed the complaint and hence the present appeal against the impugned order. We have heard Mr. Narayan Chandra Dutta, Advocate appearing for the appellant and perused the record. The State Commission while dismissing the complaint on merits has given the following reasons in support of the impugned order: The Complainant reiterated that the bank assured him of sanctioning higher credit limit in respect of his cash credit account but ultimately the bank refused to do so. Now we are to consider whether or not it is obligatory on the part of the bank to enhance the credit limit since the Complainant applied for it in the prescribed manner. In course of proceeding the Complainant has failed to show any document/rule wherefrom the inference can be drawn that the bank is bound to enhance the cash credit limit in respect of the Complainant''s cash credit account. On the other hand, the bank has submitted that it is within the discretion of the bank whether the bank can enhance the credit limit or not. Perusing the documents filed by the Complainant and considering the same the bank has come to a conclusion/decision not to enhance the cash credit limit in respect of the said cash credit account of the Complainant. In fact, the Complainant did not controvert the discretionary power of the bank. The bank intimated the Complainant by letter dated 17.2.2010 that it was unable to consider the proposal for enhancement of the cash credit limit in absence of alternate or additional security. The bank further stated that they might consider the same if the Complainant could arrange the desired additional security or cash margin as applicable under the scheme. In this case the Complainant never showed any piece of document wherefrom we can come to a conclusion that he arranged the desired additional security for enhancing the cash credit limit which

is very much pre -condition of the enhancement.

In view of the discussion made hereinabove, we are inclined to hold that in no way the bank was deficient in service. In the instant case the bank applied its discretionary power for not sanctioning the enhancement of the cash credit limit. The Complainant is not entitled to get any relief.

3. IN the absence of any material before us to the contrary, we do not find any infirmity with the view taken by the State Commission. Learned Counsel for the appellant would argue that there was delay without any reason in intimation and conveying the decision by the OP Bank and hence it amounts to deficiency on its part which led to the complainant suffering a lot in this regard. In this context, he has also referred to the time frame laid down for disposal of application of credit proposals by the banks which require the bank to deal with such cases in a time -bound manner which should not exceed a period of 30 days whereas in the present case, the period taken in dealing with the matter and conveying the refusal of the bank was much more and hence there was deficiency in service resulting in suffering of the complainant. Learned Counsel has also placed his reliance on the two cases decided respectively by the A.P. State Consumer Disputes Redressal Commission, Hyderabad,, I (2002) CPJ 223 and U.T. Consumer Disputes Redressal Commission,, I (2002) CPJ 226, in support of his submissions. We have given our anxious consideration to the submissions made by learned Counsel for the appellant. It is to be noted that basically the OP Bank has refused to increase the cash credit limit for want of security which in its commercial judgment would be considered appropriate or adequate for the enhanced limit. In such a situation, the respondent bank cannot be compelled to agree to the request for enhancement of the credit limit as requested by the petitioner/complainant. Whatever be the time frame for dealing with such application, it must be kept in view that unless the pre -conditions for the required enhancement are met, the bank is not obliged to agree to such requests. In a case of this nature, there is bound to be correspondence between the parties both in writing and otherwise and hence the delay, if any, as alleged by the complainant per se would not amount to deficiency in service. Besides this, there is yet another aspect which perhaps the State Commission did not look into and the same is in regard to the commercial nature of the request made by the complainant. Admittedly, the complainant is a wholesale reseller of tea and required the cash credit limit for the purposes of his business. In view of this, it was not a simple transaction of opening a bank account which would involve allegations of deficiency in service on the part of the bank but the alleged deficiency in the present case is in respect of the refusal of the bank to enhance the credit limit because of non -fulfilment of certain preconditions laid down by the bank. In this view of the matter, the present complaint perhaps would not be maintainable under the Consumer Protection Act. However, since the OP Bank has only mentioned about this ground in rather general terms in para 4 of its written statement and the State Commission has also not dealt with it, we do not consider it necessary to deal with this aspect of the complaint while deciding this

appeal Suffice it to say that we also do not find any instance of deficiency in service on the part of the OP bank while rejecting the request of the petitioner for enhancement of the credit limit. The judgments relied upon by the learned Counsel for the appellant will not give any comfort to the appellant since the facts and circumstances in which those decisions were taken are different from the facts and circumstances of the present case and hence they will not get attracted to this case. We, therefore, uphold the impugned order and dismiss the appeal in limine with no order as to costs.