(2008) 08 NCDRC CK 0021

In the National Consumer Disputes Redressal Commission

Rajendra Shukla APPELLANT

Vs

Union Bank of India RESPONDENT

Date of Decision : 14-08-2008

Acts Referred:

Citation : 2008 4 CPJ 183

Hon'ble Judges : S.N.Kapoor , B.K.Taimni J.

Advocate : Saurabh Jain

Judgement

1. -BOTH the petitioners were the complainants before the District Forum, where they had filed a complaint alleging deficiency in service on the part of the respondent Bank.

2. VERY briefly stated, the facts of both the cases are that the petitioners/ complainants had taken agricultural loan from the Respondent No. 1 Bank, who in turn, sought insurance from Agricultural Insurance Company under some scheme of Government of India, for which the Bank deducted amount of premium and debited the same from the petitioners account. However, no such amount was remitted by the Respondent Bank to Respondent No. 2 Insurance Company, in view of which he was not covered by the Crop Insurance Scheme. When as a result of loss of crop, the Petitioners/complainant approached the Insurance Company for getting relief under the Crop Insurance Scheme, nothing was paid as they did not have any ''cover'' for want of payment of premium. It is in these circumstances, two separate complaints were filed before the District Forum, who allowed the complaints and directed the Respondent Bank to pay an amount of Rs. 15,935 along with mental agony of Rs. 3,000 as also cost of Rs. 600 (in Revision Petition No. 3166/2008) and Rs. 11,983 along with mental agony of Rs. 3,000 as also cost of Rs. 600 (in Revision Petition No. 3167/2008). Aggrieved by these orders, Respondent Bank filed two separate appeals before the State Commission, which were dismissed. Now, these two revision petitions have been filed by the petitioners/complainants before us. We heard the learned Counsel for the petitioner. Since the point involved in both the revision petitions

is the same, we go on to dispose of these revision petitions through a common single order.

There is a delay of 91 days in filing these revision petitions and they are sought to be explained by passing on the buck to the Advocate, who after receiving the paper, did not file the revision petitions in time on account of alleged error/ mistake on the part of the clerk who kept on saying that "he has filed the matter but as a matter of fact, had not filed it". We have very carefully gone through the application for condonation of delay and are not satisfied, that sufficient grounds have been shown to us for condoning the delay of 91 days. If as per the application of condonation of delay, the papers had been sent in January 2008, and if the petitioner wake up after a gap of 6 months then he himself has to be blamed for not being alert, to ensure that the revision petition is filed in time. We are also not aware as to what action has been taken against the Advocate concerned for deficiency in service on his part. Having heard the learned Counsel as also gone through the application for condonation of delay we are not satisfied that the delay has been sufficiently explained, in view of which we find that this revision petition is time-barred.

3. COMING to the merits of the case, we find that the District Forum passed the order allowing the complaints of both the complainants and different amounts were awarded along with Rs. 3,000 as mental agony and Rs. 600 as costs. No appeal was filed before the State Commission by the petitioners/complainants before us. It was only the respondent Bank who had filed appeals, which were also dismissed. The above situation clearly conveys to us that the petitioners/ complainants were satisfied with the reliefs awarded by the District Forum, that is why they had not filed any appeal before the State Commission. A plea is advanced before us by the learned Counsel for the petitioner that they had taken ''cross-objection'' at the appeal stage and State Commission erred is not taking into that consideration. We are afraid we see no merit in this contention of the learned Counsel for the petitioner for the simple reason that we are not a Civil Court and as per provision of Consumer Protection Act, 1986, there is no provision for filing of any cross-objection. If the petitioners were not satisfied with the relief awarded by the District Forum, they should have filed an appeal before the State Commission. A cross-objection is not envisaged in the proceedings under Consumer Protection Act under any section contained therein. In view of the fact that the petitioner had not filed any appeal, clearly coveying that he was satisfied with the award given by the District Forum, he is now estopped from filing revision petitions at this stage. In the aforementioned facts and circumstances, we find that this Revision Petition is not maintainable, hence dismissed both on merits and barred by limitation. Revision Petition dismissed.