(2010) 05 NCDRC CK 0031

In the National Consumer Disputes Redressal Commission

R.S.Mitra , C.Krishna Reddy , C.SAROJINI , J. Ramakanth , J. Seetha , M.H. Prakasa Rao , RAJENDRA PRASAD , R.P. Nirmal Kumar , C.V. Vasantha Kumari , A. Balachandran — APPELLANT

Vs

Chief General Manager , Mother Theresa Hyderabad Cooperative Bank Ltd. , — RESPONDENT

Date of Decision : 25-05-2010

Acts Referred:

Citation : 2010 0 NCDRC 111 : 2010 3 CPJ 21

Hon'ble Judges : B.N.P.Singh , S.K.Naik J.

Final Decision : Petition is dismissed

Judgement

1. FOR failure of respondents no. 2 and 3 to make payment of maturity value of deposits to investors, 10 number of complaints came to be filed with District FORum. State Commission has set out facts of the case in the order in respect of complainant R.S. Mitra, finding in respect of which was also made common in case of other complainants. Let us proceed taking case of R.S. Mitra, which is fairly illustrative. Petitioner R.S. Mitra had made deposit of Rs.50,000/- on 18th of July, 2000 for a period of 15 months with respondent no.1/Bank, which on maturity on 18th of October, 2001 was to become Rs.60,105/-. After petitioner Mitra sought payment of maturity value of deposit, respondent no.1/Bank issued pay order in February, 2002 for an amount of Rs.61,340/-. Petitioner Mitra, however, withdrew only Rs.22,708/- out of Rs.61340/-. Respondent no.1/Bank for rest amount of Rs.38,632/- issued pay order on 29th of July, 2002. Subsequent thereto license of respondent no.1/Bank was cancelled by Reserve Bank of India and a liquidator was appointed to manage affairs of the Bank. The liquidator so appointed was to furnish to respondent no. 2 a list of depositors and accordingly a list was submitted by liquidator to respondent no. 2 on 21st of July, 2003. Another list-B was also submitted on 25th of March, 2004 to respondent no.2. However, name of petitioner no.1-Shri Mitra did not find mention in these two lists. It was only in other list filed on 17th of October, 2004 that name of petitioner no.1 Mitra could find place therein. However, payments of residual

amount of Rs.38,632/- were not released to petitioner no.1 by respondent no.2 holding that residual amount required to be paid to petitioner was not a deposit but it was pay order. As claim of petitioner no.1 Mitra could not be settled despite long waiting, door of consumer fora was knocked filing a complaint and District FORum on analyzing evidences put on record, finding no merit, dismissed complaint. Admittedly, after respondent no.1/Bank had gone into liquidation, liability of the Bank ceased to pay residual amount to petitioner, which had issued pay order. The claim of the petitioner was sought to be defeated by respondents no. 2 and 3 on premises that list of claim that was submitted by the liquidator, in which name of the petitioner finds place, was not accompanied with the auditors statement and also that the accounts were not included in the previous years balance sheet. As has been noticed above, the claim was defeated holding that petitioner was not a depositor of the Bank but only a holder of instrument issued by the Bank but this defence taken by respondent no.2 and 3, however, rightly did not find favour with State Commission and State Commission in its conclusive finding, while reversing finding of District FORum, directed respondents no. 2 and 3 to pay Rs.38,632/- being the amount of pay order together with compensation of Rs.3000/- and litigation cost of Rs.2000/-. State Commission while returning a finding has also placed reliance on a decision of the National Commission rendered in the case of Chief General Manager, Deposit Insurance & Credit Guarantee Corporation Vs. M.C. Prasad & Others [RP No. 2401 of 2007], in which in similar circumstances the opposite parties were directed to pay amounts due to the depositors. Section 2(g) of the Deposit Insurance and Credit Guarantee Corporation Act defines deposit as aggregate of unpaid balances due to a depositor in respect of all his accounts by whatever name called, with an insured bank. It follows that in order to be deposits the unpaid balances should be due to a depositor and should be in respect of accounts, or his name or maintained by him. Before liquidator was appointed for Bank pay orders had already been issued in favour of petitioner no.1 and as bank had acknowledged the liability to pay deposits due to petitioner no.1, grounds taken by respondents no. 2 and 3 to defeat claim of petitioner no.1 were most untenable.

2. THE finding so recorded by State Commission, as we have noticed above, was also applicable in case of other complainants, who are petitioners herein. We find no fault with the order of the State Commission. Petitioners, however, seeks interest on deposits made by them. Since State Commission has taken care of this aspect of the issue while granting compensation of Rs.3000/- to each of the complainants, we do not see good ground to grant interest on deposits. Revision petition under the circumstances is dismissed with no order as to costs.