(1994) 06 NCDRC CK 0042

In the National Consumer Disputes Redressal Commission

S. RAVINDRAN APPELLANT

Vs

MANAGER, BANK OF INDIA RESPONDENT

Date of Decision : 23-06-1994

Acts Referred:

Citation : 1994 3 CPR 224 : 1995 1 CLT 544 : 1995 1 CPC 503 : 1995 1 CPJ 214

Hon'ble Judges : David Annoussamy , A.Veerapandian J.

Final Decision : Appeal allowed

Judgement

1. THE Complainant appeals.

2. THE case of the complainant is as follows:- He opened an account under Jama Vaibhav Yojana scheme (save now buy later) in the opposite party Bank on 6.4.90, that is a recurring deposit account with monthly instalments. On maturity, the complainant would be eligible for a consumer loan and its quantum would be related to the maturity value of the deposit. He deposited Rs, 100/- per month for three years and he could borrow upto Rs, 16,829/- repayable by monthly instalments within 60 months period. When the scheme came to maturity in March, 1993, he applied for a consumer loan on 13.5.1993 for Rs. 12,618/- for the purchase of a TVS moped and other articles and he wanted the balance margin money of Rs. 4,207.40 to be invested in a Fixed Deposit for one year. To his surprise he was informed by the opposite party that the scheme was closed and that he could not be given a loan. After approaching in vain the bank several times he complained to the District Forum for an order; (1) to give a loan of Rs. 12,622,20 recoverable in 60 monthly instalments without interest and to keep the margin money of Rs. 4,207,40 in a Fixed Deposit for one year and (2) to give a compensation of Rs. 16,829.60 since he waited patiently for three years expecting that he will have the benefit of the loan. The District Form after hearing the parties fully came to the conclusion that as per the rules of the bank the fully came to the complainant was not entitled to the loan he applied for and accordingly dismissed the complaint by order dated 4.2.94. Aggrieved by that order the complainant has preferred this appeal.

The case of the Appellant is that he has contributed to the loan upto March, 1993 and the denial of the benefit of the loan by the bank is illegal.

3. THE defence of the opposite party hinges on a provision of the rules governing the scheme which is reproduced below:- "If the instalments are not paid on or before the due dates, the Account will be treated as a Delayed Irregular Instalment Account and the depositor will not be eligible for a loan." This has been further stressed by the circular No. 82/134 dated 22.06.88 issued by the Head Office of the Bank which reads as follows:-"All monthly instalments of the Recurring Deposit Account should have been paid without any delay." THE opposite party would contend that the Appellant has paid the monthly instalment due for August, 1992 in September, 1992 and therefore got disentitled to the loan, as per the rules governing the scheme. THEy further contended that the rule was meant to test the ability of the customer to pay regularly the amount of loan to be given subsequently and that the complainant has failed in the test. The stand of the bank would be perfectly justified if they have treated the account of the complainant as delayed irregular instalment account when he failed to pay the instalment in August, 1992. They did not choose to take that course. On the contrary, they have been receiving regularly the instalments even after August, 1992 upto March, 1993; They did not inform in September, 1992 that his right to loan under the scheme had come to an end. The conduct of the bank leads to think that the delay of one month in paying of the instalment of August, 1992 has been condoned. It is in the belief that his account under the scheme was kept alive that the complainant has been continuously contributing regularly upto March, 1993. It is well-known that any default can be condoned by the competent authority for valid reason . Even adultery can be condoned in an application for divorce. Therefore, from the nature of things and the conduct of the bank the irresistable conclusion is that the delay was condoned and that the account under the scheme was alive. We, therefore, come to the conclusion that the refusal of the bank to give loan is unjustified and that the loan applied for has to be given.

4. IT is to be noted that as far as compensation is concerned the complainant has sustained two kinds of loss. First, there has been a considerable increase in the prices from the time he applied for loan and now, so that he will have to pay a higher amount for the same article. Secondly, he was deprived of his rightful enjoyment of those articles for about one year. A person who cannot afford to purchase straightaway an article of his liking and who strived to save rupee by rupee every month in the hope of acquiring the object of his desire is bound necessarily to suffer mentally to a greater extent when deprived of the right to of enjoyment of such a thing. We, therefore, find that for the loss on those two counts he will be entitled to Rs. 2,000/- as. Compensation. We consider also that the bank should have been fair enough to grant him the loan and not resort to take shelter under rules which they have in fact mis-applied. Therefore, the complainant will be also entitled to costs. In the result, the opposite party is directed to give to the complainant a loan of Rs. 12,622.20 recoverable in 60

monthly instalments without interest by keeping the margin money in fixed deposit for one year and secondly to give him a compensation of Rs. 2,000/- and thirdly to pay him costs to the tune of Rs. 750/- All the above said amounts should be disbursed within a month from today, failing which they will carry interest at 12% per annum till the date of full payment. Appeal allowed.

