(1996) 05 NCDRC CK 0081

In the National Consumer Disputes Redressal Commission

SATISH MEHRA APPELLANT

Vs

PUNJAB AND SIND BANK RESPONDENT

Date of Decision : 10-05-1996

Acts Referred:

Citation : 1996 2 CPJ 457 : 1996 3 CPR 435 : 1997 1 CPC 79

Hon'ble Judges : A.P.Chowdhri , S.Brar , Desh Bandhu J.

Final Decision : Complaint allowed with costs

Judgement

1. THE dispute in this case relates to the action of opposite party-Bank in making renewal in a single name FCNRs (Fixed Deposit) which stood in joint names in contravention of the instructions of the complainant Bank''s own instructions on the subject and well accepted practice of banking.

2. FACTS of the case in brief are that the complainant is a non-resident Indian settled in U.S.A. He opened a Foreign Currency Non Resident Fixed Deposit Account with the opposite party on 13.9.85 and deposited a sum of $ 3,000 for a period of 12 months. On 11.11.86 he wrote to the respondent to add the name of his wife Mrs. Anita Mehra in the Fixed Deposit and that the amount shall be payable to either of them. Opposite Party Bank carried out the instructions accordingly. On 21.10.88 the complainant got another FCNR issued in the joint name of himself and his wife for US $1,000. The FCN Rs were got renewed by the complainant year after year. The last renewal done was on 4.11.91 for FCNR for $5,186.60 and on 21.10.91 for FCNR for $1,324.21 bearing Nos. 103402 and 103403 respectively. In addition to the above accounts there was one more Account No. 385 opened on 27.12.85 with the respondent-Bank, FCNR bearing No. 101658 was issued in regard thereto for US $ 1,900. But this account was exclusively in the name of Smt. Anita Mehra alone. This FCNR was also renewed year after year, last renewal being upto 27.12.92 bearing No. 107184. Although the claim of the complainant is that this FCNR was also in joint names documents placed on record by the respondent-Bank go to show that the FCNR was infact in the name of Anita Mehra alone. The complainant has not been able to produce

any evidence to the contrary. On 18.9.92, Mrs. Anita Mehra approached the respondent-Bank through a letter requesting the latter to renew FCNRs Nos. 103402 find 103403 in her name (alone) for a further period of 12 months. The respondent- Bank acceded to the request of Mrs. Anita Mehra deleted the name of the complainant and issued a consolidated FCNR in favour of Mrs. Anita Mehra bearing No. 107131 dated 21.10.92 for US $ 7,042.08. On 17.3.93 upon request from Mrs. Anita Mehra the opposite party opened an NRE Account No. 2205. The respondent-Bank allowed premature withdrawal of FCNR No. 107184 and credited the proceeds to NRE Account aforesaid. Mrs. Anita Mehra withdrew the entire amount credited to her NRE Account the same day. The opposite party has contested the complaint and its stand is that it had acted in accordance with the instructions of the complainant and the relevant rules and instructions.

We have heard both sides. The complainant argued his case in person and Mr. Sunil Tyagi, Advocate, appeared for the respondent. Case of the complainant is that the respondent Bank, in violation of Bank Rules and Practices, transferred by renewal three FCNRs bearing Nos. 163402, 163403 and 107184 from joint names to the individual name of Mrs. Anita Mehra, and that this had been done by the Bank staff in collusion with the father of Mrs. Anita Mehra - Sh. S.K. Khosla. Learned Counsel for the respondent, Mr. Sunil Tyagi, pointed out that the case of FCNR 107184 was distinguishable from that of the remaining two FCN Rs. He submitted that the said FCNR was made in the individual name of Mrs. Anita Mehra. Way back in 1985 on the 27th December and Account No. 389 had been opened in the single name of Mrs. Anita Mehra and this had continued even since, renewed year after year, in the sole name of Mrs. Anita Mehra and thus Mr. Satish Mehra, the complainant, could claim on interest in the same. This contention of the learned Counsel is supported by copy of the FCNR and other relevant material. It transpires that this account actually was initially opend in the name of Mrs. Anita Mehra and continued to be so and the complainant could have no claim against the respondent Bank for their having given credit of the same to Mrs. Anita Mehra and to have allowed ultimate withdrawal of funds in that account.

3. THE initial deposit of $ 3,000 made in 1985 together with interest which accrued thereon was converted in two FCNRs No. 101858. and 101859 for $ 3,200 and $ 91 on 20.11.86 and 13.9.86 respectively. Regarding the renewed two FCNRs bearing No. 103402 and 103403 which stood in joint names of the complainant and Anita Mehra and from which the name of the complainant was defected the FCNRs renewed in the individual name of Mrs. Anita Mehra, learned Counsel has placed reliance on a letter dated 11.11.86 written to the respondent-Bank by the complainant. In that letter the complainant had referred to a fixed deposit dated 13.9.85 bearing No. 103573. This account was till then in the sole name of the complainant. The complainant, through the said letter, had advised the Bank as follows : "In is hereby requested that the same may please be renewed for a further period of 12 months and the name of Mrs. Anita Mehra be also included in the renewed Fixed Deposit i.e. the renewed F.D. be issued jointly

in the name of Satish Kumar and Mrs. Anita Mehra, payable to either of the two on maturity."

4. THE Fixed Deposit continued thereafter being renewed year after year in joint names until 21.10.92 when upon a request from Mrs. Anita Mehra dated 18.9.92 the respondent-Bank deleted the name of the complainant from the FCNRs and renewed the same in the sole name of Mrs. Anita Mehra. Thus, the entire controversy boils down to the issue whether the respondent-Bank carried out its duty cast upon it by the Bank rules, law and practices diligently when it deleted from the joint name FCNR the name of the complainant upon the request of the other co-holder; whether the letter written by the complainant to the respondent-Bank on 11.11.86 could be deemed to be a blanket authority to the Bank to delete one of the names from the joint FCNR; whether there are any regulatory Bank rules on the subject; and whether under those rules such a deletion could be made. A close reading of the letter dated 11.11.86 would show that the same referred to instructions for a particular Fixed Deposit issued on 13.9.85 bearing No. 101573. THEreupon year after year the FCNRs were renewed under joint names and only rules of the Bank regulating joint Fixed Deposits had to be applied for considering action on a request of one joint holder to delete the name of the other. THE letter from the complainant dated 11.11.86 would not seem to authorise the respondent-Bank to ''renew'' the FCNR in a single name leaving out the name of the other co-holder. Turning to the rules on the subject we reproduce here below Rule 27 dealing with ''Addition or Deletion of Name(s) as per Manual of Instructions issued by the opposite party-Bank : "Addition of one or more name(s) is permitted but no substitution of an existing depositor''s name by that of a new one can be permitted. Similarly deletion of any one or more Name(s) can be allowed provided a written request signed by all the depositors is received. In that case old receipt should be called back duly discharged by the existing depositor(s) and new receipt be issued.."

We find that the rule clearly lays down that for a request for deletion to be valid, it is obligatory that the same is ''signed by all the depositors''. This is not so in the present case. The request is not signed by both the joint depositors. The Bank could not have thus acted upon the request of a single co-holder of the Fixed Deposit. The letter of the complainant dated 11.11.85 does not come to the rescue of the Bank at all. The deficiency on the part of the respondent-Bank is, thus, obvious. Further more, under the aforesaid Rule 27, the Bank was under an obligation to obtain due discharge by the existing depositors. That also has not been done in the instant case. As for the police investigations absolving the respondent-Bank of any wrong-doing, it seems that the relevant rules of the Bank were not brought to their notice. The police findings, therefore, could provide no help to the respondent-Bank in the instant proceedings.

5. UPON careful consideration of the material before us and the oral pleadings of the parties we have no difficulty in holding that : (a) FCNR No. 107184 dated 27.11.91 related to an account which all along remained in the sole name of Mrs.

Anita Mehra and therefore the complainant can have no valid grievance against the respondent-Bank for having dealt with the same in the manner it has done. (b) FCNRs 103402 and 103403 were admittedly in joint names and, as discussed above, the name of the complainant could not have been deleted from the renewed FCNRs. The respondent-Bank has committed deficiency in service by permitting deletion. (c) Action of the respondent-Bank in issuing a renewed FCNR No. 107131/ 536/92 dated 21.10.92 was patently in violation of the Bank''s Manual of Instructions and without authority. The amount of $ 7042.08 shall, therefore, continue to be deemed to be in joint names of Satish Mehra and Anita Mehra accruing the RBI permitted interest. The amount shall be payable in foreign currency or Indian currency as may be permissible under the RBI rules on the subject. The respondent-Bank shall be at liberty to seek retrieval of the amount paid by it to Mrs. Anita Mehra in violation of the rules from the person concerned. (d) As between the complainant and Mrs. Anita Mehra the parties can have recourse to law for the dispute relating to withdrawal of money from the joint account, ordered to be reinstated in (c) above. (e) Banking institutions are expected to conduct their operations with utmost care committing no violation of rules and instructions and showing no favours in disputes among parties. The respondent-Bank, in the instant case, has clearly acted against its regulatory rules and failed to exercise due caution in its operations. This has caused considerable harassment to the complainant who is a resident of New York and has had to pursue his complaint in this Commission for almost a year and a half. And, it caused considerable mental agony to the complainant. It is difficult to compensate him for all that he had gone through. However, we consider that the respondent-Bank shall pay to the complainant Rs. 10,000/- as damages. (f) The respondent Bank shall pay Rs. 2,500/- towards costs.

6. PAYMENT of compensation damages and costs as per (e) and (f) above shall be made within four weeks from the date of receipt of the order. As for action of reinstatement of account in terms of (c) above we allow eight weeks period to the respondent-Bank to do the needful. Ordered accordingly. A copy of this order be communicated to the parties. Complaint allowed with costs.