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(2011) 04 NCDRC CK 0047

In the National Consumer Disputes Redressal Commission

Shushma Goel APPELLANT

Vs

Punjab National Bank RESPONDENT

Date of Decision : 07-04-2011

Acts Referred:

Citation : 2011 0 CTJ 618 : 2011 0 NCDRC 209 : 2011 2 CPJ 270

Hon'ble Judges : R.K.Batta , Vinay Kumar J.

Final Decision : Petition stands dismissed

Judgement

1. THIS revision petition is filed under section 21(b) of the Consumer Protection Act, 1986. As stated in the petition, the petitioner Sushma Goel, has been engaged in the business of share trading and is an authorised agent of M/s. Bonanza Portfolio Ltd. She had filed a consumer complaint against the Punjab National bank in 2009, before the District Consumer Forum Haridwar.

2. THE case of the complainant was that she had opened a current account with the RP/ Punjab National Bank, in the name of Bonanza Portfolio Ltd (herein after referred to as M/s. BPL). On 12 June 2008, when she got her passbook updated, she found that Rs.2,35,000/- had been transferred from this account, through two cheques and deposited in the savings bank account of one Ranjit Singh on 11 June 2008. On the very next day, Ranjit Singh had withdrawn this entire amount, Rs.2,00,000/- through a withdrawal form and Rupees 35,000 through the ATM. On enquiry, the complainant found that no person by the name Ranjit Singh resided on the address given nor had Mehar Singh introduced any Ranjit Singh to the bank, at the time of opening of an account in the name of the latter on 2 June 2008. District Forum allowed the complaint and held Punjab National bank liable to pay Rs.2,35,000/- to the complainant, with 9% interest from the date of the complaint. In the appeal filed by the Punjab National bank, the State Consumer Disputes Redressal Commission, Uttrakhand, disagreed with the finding of the District Forum and set aside the consumer complaint itself. The Commission noted that a question had been raised by the respondent Bank on the maintainability of the consumer complaint, on which no finding was given by

the District Forum. Secondly, the Commission observed that, if the case of the complainant was that the two cheques had been stolen, why was Bank not advised to stop payment on them. One of the cheques was dated 2.6.2008 and the other one 5.4.2008, the latter claimed to be of 5.1.2008 by the complainant.

These observations draw support from certain other documents on record. We find that the complainant had taken up the matter with the Bank on 19.6.2008 but there is no explanation as to why did the complainant take nearly two and a half months to lodge the FIR with the Police on 23.8.2008, when the matter had come to her notice on 12.6.2008.

3. ACCORDING to the Complainant, the bank account from which the amount in question of Rs.2,35,000/- has been withdrawn was in the name of M/s. Bonanza Portfolio Ltd. The State Commission has observed that such an account would have required a formal board resolution to permit the Complainant to operate the same. OP/Punjab National Bank had pointed out before the District Forum that the authority letter issued in favour of Complainant Sushma Goel, was signed by single Director of the company. This letter was dated 25.9.2009 and authorised Mrs. Sushma Goel, on behalf of the company, to appear before the District Consumer Forum and to file and sign all necessary documents. It was pointed out on behalf of the OP/Punjab National Bank that this authorization was subsequent to the filling of the complaint before the District Forum and therefore could not have given the authority to file. The State Commission was also informed by appellant, Punjab National Bank that Ranjit Singh, the person on whose name the two cheques were issued, was himself an employee of the Company. The State Commission has referred to para 3 in the affidavit filed by Shri S.K.Goel, Director of M/s. BPL stating that Smt. Sushma Goel happens to be authorized signatory/proprietor of Messrs. Bonanza Portfolio Limited, Haridwar. The State Commission has therefore, observed that as the capacity of the Complainant was variously shown as Partner/Proprietor/Director of the Company, District Forum should have given a finding on the maintainability of the consumer complaint filed by her. Challenging the above order of the State Commission, the Revision Petitioner has stated: Honble State Commission has erred in not appreciating that position of the Revisionist in the company is that of the authorized signatory of the company and the said fact had been stated by the Revisionist in legal notice sent to respondent and was also corroborated by the authority letter issued in favour of the Revisionist and affidavit of Shri S.K.Goyal Director/C.M.D of the company.

4. FROM this and the evidence produced on behalf of the Complainant before the fora below, it is abundantly clear that the entire matter in the complaint filed by Smt. Sushma Goel relates to operation of a bank account maintained by a commercial organization for a commercial purpose. The revision petition itself claims in para 3.1 that Revisionist is engaged in business of the share trading and is an authorized agent of M/s Bonanza Portfolio Ltd (herein referred to as Company) a company incorporated under Companies Act 1956 having its

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registered office at 4353/4C, Ansari Road, Darya Ganj, New Delhi. By this admission, the complaint will fall within the exception clause contained in Section 2(1)(d)(ii) of the Consumer Protection Act, as amended in 2002. In terms of this provision, the RP/Complainant does not qualify to be a consumer for the purposes of the Consumer Protection Act, 1986. Therefore, in our view, the State Consumer Disputes Redressal Commission Uttrakhand has rightly rejected the Consumer Complaint filed by the Revision Petitioner. For the reasons detailed above, we do not find any grounds to interfere with the impugned order. Consequently, the Revision Petition stands dismissed with no order as to costs.

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