

(1993) 05 NCDRC CK 0049

In the National Consumer Disputes Redressal Commission

S.L.BHARGAVA

APPELLANT

Vs

ZONAL MANAGAER, UCO BANK

RESPONDENT

Date of Decision : 21-05-1993

Acts Referred:

Citation : 1993 0 CPC 841 : 1993 2 CPJ 958

Hon'ble Judges : R.N.Mittal , S.Brar , A.N.Saxena J.

Final Decision : Appeal allowed with costs

Judgement

1. THIS appeal has been filed against the order of the District Forum-I dated 25.6.92 by which the complaint of the complainant was dismissed. Briefly the facts are that the complainant had hired a locker from the respondent. He received a notice on 29.1.92 for payment of advance locker rent for a period of five years and also for depositing a sum of Rs. 1,500/- in the shape of fixed deposit for a like period. He informed the bank that in terms of the agreement executed between him and the bank the latter was not entitled to demand the aforesaid amounts. It is alleged that he was treated with discourtesy by the Manager of the Bank, when he refused to accede to his request and threatened that he would not be allowed to operate the locker without payment of the amounts as claimed by the Bank. The complainant therefore, prayed that the respondent be directed to allow the complainant to operate his locker and pay an amount of Rs. 5,000/- as damages.

2. THE complaint was contested by the respondent; they pleaded that according to clause 18 of the agreement between the parties the respondents had a right to amend the conditions at their discretion at any time without any notice to the customers. THEY further pleaded that they had the right to increase the rent of the locker, in view of the increase in cost of various items involved in maintaining the lockers. THEY also pleaded that they were entitled to caution money of Rs. 1,500/- by way of FDR from the customers. However, they denied that they treated the complainant with discourtesy. The bank withdrew the instructions directing the customers to deposit Rs. 1500/- as caution money vide circular

dated 4.4.92. However, they claimed that they were entitled to 5 years advance rent from the customers. The learned District Forum vide order dated 24.4.92, directed the bank to allow the operation of the locker and that order had been complied with. Thus that part of the grievance of the complainant no longer exists. The complaint was, however, dismissed, regarding other prayers. He has come up in appeal against that order to this Commission.

The first question that arises for determination is, whether the Bank could ask the hirer of a locker (hereinafter referred to as the customer) to pay rent of the locker in advance for a period of five years. We have seen the conditions contained in the application for hiring the locker. At page 1 of the application it is provided that the Bank can charge rent in advance. The clause reads as follows :
- We agree to pay the rent for one year in advance in respect of the said locker as may be prescribed by you from time to time and rent shall not be refundable by you even in the case of earlier termination of this Agreement.

3. FROM the aforesaid clause it is evident that the Bank cannot ask a customer to deposit rent of the locker for a period of more than one year. At the back of the application some "conditions" have been given. Condition No. 18 provided that the Bank had the right to add or amend the conditions at its discretion at any time and without any notice. The learned Counsel for the respondent submits that in view of clause 18 the Bank had the right to ask the customer to deposit rent in advance for a period of five years. We have duly considered the argument but do not find any force therein. Clause 18 relates to the conditions which are mentioned at the back from serial Nos. 1 to 17 and not to the conditions which are mentioned at page 1 of the application. Thus the clause requiring a customer to deposit advance rent for one year is not a part of the conditions to which condition No. 18 is applicable. Therefore, condition 18 does not entitle the Bank to make any amendment unilaterally in the clause regarding deposit of rent in advance. Consequently we are of the opinion that the Bank cannot direct a customer, who was in possession of a locker earlier, to deposit five years rent in advance. The second question that arises for determination is, whether the complainant is entitled to the damages as he had been illegally stopped by the Bank to operate the locker. The learned District Forum observed that there was deficiency in service on the part of the respondent when its officers denied to the complainant access to the locker. In our view the finding is unassailable. In spite of this it did not grant damages to him on the ground that whatever was done by the officials, was under the instructions of the Bank. We do not agree with this conclusion of the learned District Forum. The complainant had a savings Fund Account with the respondent Bank and he had given an authority to them to debit the rental of the locker to that account. It has not been shown that the appellant had no money in his Account. Thus, the rent would be deemed to have been paid by him. The behaviour of the officers of the Bank had also been rude to him. After taking into consideration all these circumstances, we are of the view that the appellant is entitled to damages from the respondent. We fix the amount of damages as Rs. 1,000.00 only.

4. FOR the aforesaid reasons we accept the appeal with costs and hold that the respondent had no right to ask the appellant to deposit five year's rent in advance and direct them to pay to the appellant an amount of Rs. 1,000/- as damages within a period of three months. In case the Bank fails to pay the amount of Rs. 1,000/- within 3 months they shall further be liable to pay interest @ 12% per annum on the amount of Rs. 1,000/- from the date of filing the complaint till the date of payment and that action shall be taken against them under Section 27 of the Consumer Protection Act. Costs Rs. 500/-. Appeal allowed with costs.