
(2015) 03 NCDRC CK 0118

In the National Consumer Disputes Redressal Commission

STANDARD CHARTERED BANK

APPELLANT

Vs

Himanshu Sharma

RESPONDENT

Date of Decision : 25-03-2015

Acts Referred:

Citation : 2015 2 CPJ 757

Hon'ble Judges : K.S.CHAUDHARI J.

Final Decision : Petition allowed

Judgement

1. THIS revision petition has been filed by the petitioner against the order dated 28.07.2014 passed by the Rajasthan State Consumer Disputes Redressal Commission, Jaipur (in short, the State Commission) in appeal no. 937 of 2010 by which, while dismissing appeal, order of District Forum allowing complaint was upheld.

2. BRIEF facts of the case are that complainant/respondent was issued credit card by OP/petitioner. Alleging arbitrary and unilateral imposition of late charges/penalties in his card by OP, complainant filed complaint before District Forum. OP resisted complaint and denied any deficiency and prayed for dismissal of complaint. Learned District Forum after hearing both the parties allowed complaint and directed OP to refund Rs.396.29 with 9% p.a. interest and further directed to pay Rs.50,000/- towards mental agony and Rs.2500/- as cost. Appeal filed by OP was dismissed by learned State Commission against which, Revision Petition No. 3856 of 2011 Standard Chartered Bank Vs. Himanshu Sharma was filed by petitioner and this Commission vide order dated 8.11.2012 while allowing revision petition remanded the matter back to the learned State Commission to decide appeal afresh on merits after giving an opportunity of being heard to the parties by speaking order. Learned State Commission again vide impugned order in the absence of parties dismissed appeal without any speaking order against which, this revision petition has been filed.

3. NONE appeared for respondent event after service and he was proceeded ex - parte. Heard learned Counsel for the petitioner and perused record.

4. LEARNED Counsel for the petitioner submitted that inspite of directions of this Commission to decide appeal by speaking order, learned State Commission committed error in dismissing appeal without hearing parties by a non -speaking order; hence, revision petition be allowed and impugned order be set aside and matter may be remanded back to learned State Commission.

5. PERUSAL of order dated 8.11.2012 passed by this Commission clearly reveals that learned State Commission was directed to decide appeal by speaking order after giving an opportunity of being heard to the parties. Perusal of impugned order reveals that learned State Commission again dismissed appeal in the absence of parties that too without any speaking order.

6. IN a number of cases, we have observed that first appellate court is expected to decide appeal by speaking order as held by the Hon"ble Apex Court in HVPNL Vs. Mahavir, 2001 10 SCC 659 . In spite of specific direction by this Commission learned State Commission committed error in dismissing appeal without any speaking order that too without giving an opportunity of being heard to the parties and in such circumstances, impugned order is liable to set aside.

7. CONSEQUENTLY , revision petition filed by the petitioner is allowed and order dated 28.7.2014 passed by the learned State Commission in appeal no. 937 of 2010 - Standard Chartered Bank Vs. Himanshu Sharma is set aside and matter is remanded back to learned State Commission to decide appeal afresh by speaking order after giving an opportunity of being heard to the parties.

8. PETITIONER is directed to appear before State Commission on 5.5.2015.