

(2013) 08 NCDRC CK 0056

In the National Consumer Disputes Redressal Commission

State Bank Of Bikaner And Jaipur Rampur

APPELLANT

Vs

BHANWAR SINGH

RESPONDENT

Date of Decision : 26-08-2013

Acts Referred:

Citation : 2013 0 NCDRC 610

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

Advocate : KITTU BAJAJ , CHANDER PRAKASH

Judgement

1. THIS revision petition has been filed by the petitioner/OP against the order dated 03.08.2012 passed by the Rajasthan State Consumer Disputes Redressal Commission, Jaipur (in short, "the State Commission ") in Appeal No. 1100/2011 - State Bank of Bikaner & Jaipur & Ors. Vs. Bhanwar Singh & Ors. by which, while dismissing appeal, order of District Forum allowing complaint was upheld.

2. BRIEF facts of the case are that complainant/respondent availed loan of Rs. 2,30,000/- from the OP/petitioner and purchased a tractor. Complainant could not re-pay loan in time. In 2008, Central Government introduced Prime Minister Debt Waiver Scheme and under that scheme, OP asked complainant to deposit amount under waiver scheme to get substantial relief. Complainant deposited amount with the OP and complainant asked OP to issue waiver certificate, but that was not issued and illegal demand of Rs.20,000/- was made from him. Alleging deficiency on the part of OP, complainant filed complaint before District Forum. OP resisted complaint and submitted that complainant did not fall under the scheme and OP has not committed any deficiency and prayed for dismissal of complaint. Learned District Forum after hearing both the parties allowed complaint and directed OP-1 to issue "no due certificate " to the complainant within one month in reference to closed loan account along with litigation expenses. Appeal filed by the petitioner was dismissed by learned State Commission vide impugned order against which, this revision petition has been filed along with application for condonation of delay of 57 days. Heard learned Counsel for the parties finally at admission stage and perused record.

3. PETITIONER has filed application for condonation of delay of 57 days on the ground that Advocate Sadaf Naaz, who was entrusted to file revision, suffered from acute typhoid and in such circumstances, she could not file revision petition within limitation; hence, delay may be condoned. Petitioner has filed affidavit of Advocate Sadaf Naaz along with medical certificate of 61 days from 7.11.2012 to 6.1.2013. This revision petition has been filed on 7.1.2013. We deem it proper to allow application for condonation of delay of 57 days, subject to cost of Rs.5000/- to be paid by the petitioner to the respondent.

4. LEARNED Counsel for the petitioner submitted that impugned order is not a speaking order and learned State Commission has not dealt with the arguments submitted by the petitioner; hence, petition be allowed and matter may be remanded back to the learned State Commission for disposal by speaking order. On the other hand, learned Counsel for the respondent submitted that District Forum has elaborately discussed submissions of the parties and order passed by learned State Commission is in accordance with law; hence, petition be dismissed. Perusal of impugned order reveals that it is not a speaking order and learned State Commission has observed as under: "The District Forum has passed the order after detailed discussion on the facts and evidence of the complaint. Thus we do not find any justification in discussing the facts and evidence again. Looking into the facts and circumstances, we find no illegality in the order passed by the Ld. District Forum, Alwar in Complaint No. 25/2010. Since the District Forum has considerably dealt with the facts on record, it does not call for interference. Besides, we do not find any justification in appeal on its merits/demerits ".

5. HON "ble Apex Court in (2001) 10 SCC 659 - HVPNL Vs. Mahavir observed as under: "1. In a number of cases coming up in appeal in this Court, we find that the State Consumer Disputes Redressal Commission, Haryana at Chandigarh is passing a standard order in the following terms: "We have heard the Law Officer of HVPN - appellant and have also perused the impugned order. We do not find any legal infirmity in the detailed and well-reasoned order passed by District Forum, Kaithal. Accordingly, we uphold the impugned order and dismiss the appeal ". 2. We may point out that while dealing with a first appeal, this is not the way to dispose of the matter. The appellate forum is bound to refer to the pleadings of the case, the submissions of the counsel, necessary points for consideration, discuss the evidence and dispose of the matter by giving valid reasons. It is very easy to dispose of any appeal in this fashion and the higher courts would not know whether learned State Commission had applied its mind to the case. We hope that such orders will not be passed by the State Consumer Disputes Redressal Commission, Haryana at Chandigarh in future. A copy of this order may be communicated to the Commission ".

6. IN the light of above judgment, it becomes clear that Appellate Court while deciding an appeal is required to deal with all the arguments raised by the appellant and as learned State Commission has not dealt with arguments of the

appellant, it would be appropriate to remand the matter back to the learned State Commission for disposal by speaking order after dealing with all the contentions and arguments raised by the petitioner. Consequently, revision petition filed by the petitioner is allowed and impugned order dated 03.08.2012 passed by the learned State Commission is set aside and matter is remanded back to the learned State Commission for deciding it by speaking order after giving an opportunity of being heard to the parties.

7. PARTIES are directed to appear before the learned State Commission on 04.10.2013. A copy of this order be sent to the Rajasthan State Commission, Jaipur.