

(2014) 11 NCDRC CK 0061

In the National Consumer Disputes Redressal Commission

STATE BANK OF INDIA

APPELLANT

Vs

Daulat Raisinghani

RESPONDENT

Date of Decision : 13-11-2014

Acts Referred:

Citation : 2014 3 UC 2282

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

Advocate : YASHPAL GARG

Judgement

1. THIS revision petition has been filed by the petitioner against the order dated 31.7.2014 passed by the Rajasthan State Consumer Disputes Redressal Commission, Bench No. 1 Jaipur (in short, "the State Commission ") in Appeal No. 217/2009 - State Bank of India Vs. Daulat Raisinghani & Anr. by which, while dismissing appeal, order of District Forum allowing complaint was upheld.

2. BRIEF facts of the case are that Complainant No.1/respondent No. 1 was appointed in OP /Petitioner Bank on the post of officer on 7.6.1979 and Complainant No. 2/Respondent No. 2 is wife of Complainant No. 1. Complainants hired locker jointly at OP 's Branch and were paying locker 's rent regularly from 1981 to 2002 and both were operating locker jointly and severally. In the year 2002, locker 's rent was Rs.275/- per year, but later on rent was increased but complainants were not intimated. Complainant No. 1 retired on 30.11.1997. In November, 2001, Complainant No. 1 suffered paralysis in his right leg and could not make movement upto December, 2005. Complainant No. 2 approached OP in May, 2002 for depositing locker 's rent and for operation of locker, but she was not allowed to operate, but deposited locker 's rent and she was asked to come with Complainant No. 1. Complainants went to OP Bank on 5.1.2006 and they were apprised that on 23.3.2005 locker of complainants was broken down and allotted to other person and inspite of their request OP refused to give list of articles in the locker and refused to return items kept in the locker. Alleging deficiency on the part of OP, complainant filed complaint before District forum. OP resisted complaint and submitted that complainant never deposited locker

rent in time and no locker rent was deposited after 7.1.2002 inspite of notices. On 30.10.2004, public notice was published in papers; even then, rent was not deposited and locker was broken on 23.3.2005 in presence of witnesses and list of articles in the locker was prepared and they were kept in safe custody to be returned on payment of rent and prayed for dismissal of complaint. Leaned District Forum after hearing both the parties, allowed complaint and directed OP to pay Rs.90,000/- for his gold and silver ornaments and Rs. 2,00,000/- for mental agony and Rs.11,000/- towards legal expenses. Appeal filed by OP was dismissed by learned State Commission in absence of respondent vide impugned order against which, this revision petition has been filed.

3. HEARD learned Counsel for the petitioner at admission stage and perused record. Learned Counsel for the petitioner submitted that Counsel for the petitioner could not appear before State Commission on account of Advocate "s strike and learned State Commission committed error in dismissing appeal without giving an opportunity of being heard to the petitioner and that too without speaking order; hence, revision petition be allowed and impugned order be set aside.

4. IT is not disputed that none of the parties were heard before State Commission on 31.7.2014. It is also not disputed that on that day, Advocates were on strike in the State of Rajasthan. In the absence of Advocates, leaned State Commission either should have dismissed appeal in default or should have decided appeal on merits.

5. PERUSAL of impugned order reveals that this order neither contains facts of the case, nor contains grounds taken by the petitioner in memo of appeal, nor contains any decision on those points and in such circumstances; this order cannot be stated to be a speaking order.

6. 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 "".

7. IN the light of above judgment, it becomes clear that Appellate Court while deciding an appeal is required to deal with all the aspects raised by the appellant in memo of appeal and as learned State Commission has not dealt with any facts of the case and ground in the memo of appeal, 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.

8. CONSEQUENT LY , revision petition filed by the petitioner is allowed and order dated 31.7.2014 passed by the Rajasthan State Commission, Bench No. 1 Jaipur in Appeal No. 217/2009 - State Bank of India Vs. Daulat Raisinghania & Anr. 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.

9. PARTIES are directed to appear before the learned State Commission on 04.01.2015.