

(2012) 05 NCDRC CK 0067

In the National Consumer Disputes Redressal Commission

STATE BANK OF INDIA

APPELLANT

Vs

Shambhu Narain Sinha

RESPONDENT

Date of Decision : 29-05-2012

Acts Referred:

Citation : 2012 0 NCDRC 811 : 2012 3 CPJ 108

Hon'ble Judges : J.M.MALIK , SURESH CHANDRA J.

Final Decision : Petition allowed

Judgement

1. FIRST and foremost question is whether the complaint filed by Shri Shambhu Narain Sinha, the complainant/respondent, was within time? The facts of this case are that the complainant Sh. Shambhu Narain Sinha had an account in the main Branch of State Bank of India, Munger. On 9.6.1993, when the complainant went to the Bank to withdraw Rs. 1,500, he came to know that Rs. 20,000 had already been withdrawn fraudulently on 3.11.1993, for which he made complaint to the Bank Manager. FIR was also lodged. The District Forum came to the conclusion that the police investigation was going on, report of the expert, over specimen signature was not clear and the case was disposed of without any prejudice to the claims and counter claims of the complainant and the petitioner Bank. Succinctly stated, the case was not decided by the District Forum and parties were supposed to seek redressal of this problem from some other Forum.

2. ON appeal, the State Commission allowed the complaint and directed the Bank to pay a sum of Rs. 20,000 to the complainant with interest as per Bank rate, from the date of fraudulent withdrawal to the date of actual payment. The bank was also directed to pay the cost of Rs. 10,000 to the complainant. Aggrieved by the said order, the petitioner SBI has filed the present revision petition. We have heard both the Counsel for the parties. It may be stated here that the complaint filed by the complainant appears to be barred by time. The complainant himself admitted that he came to know about the said fraudulent withdrawal on 9.6.1993, however, the complaint was filed before the District Forum on 18.10.1995. The complaint was filed after a period of two years. Section 24-A

prescribes the limitation period, as follows: "24A.Limitation period -(1) The District Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen. (2) Notwithstanding anything contained in Sub-section (1), a complaint may be entertained after the period specified in Sub-section (1), if the complainant satisfies the District Forum, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period: Provided that no such complaint shall be entertained unless the National Commission, the State Commission or the District Forum, as the case may be, records its reasons for condoning such delay".

It is surprising to note that no application for condonation of delay was ever moved before the District Forum. It is, thus, clear that the complaint moved before the District Forum was hopelessly barred by time. There was delay of more than four months. Consequently, the above said revision petition has to be accepted on this short score.

3. THE observations made by the Hon "ble Supreme Court in the authority reported in State Bank of India v. B.S. Agricultural Industries (I), II (2009) CPJ 29 (SC)=II (2009) SLT 793=2009 CTJ 481 (SC) (CP), are notable: "It would be seen from the aforesaid provision that it is peremptory in nature and requires Consumer Forum to see before it admits the complaint that it has been filed within two years from the date of accrual of cause of action. The Consumer Forum, however, for the reasons to be recorded in writing may condone the delay in filing the complaint if sufficient cause is shown. The expression, "shall not admit a complaint " occurring in Section 24A is sort of legislative command to the Consumer Forum to examine on its own whether the complaint has been filed within limitation period prescribed thereunder. As a matter of law, the Consumer Forum must deal with the complaint on merits only if the complaint has been filed within two years from the date of accrual of cause of action and if beyond the said period, the sufficient cause has been shown and delay condoned for the reasons recorded in writing. In other words, it is the duty of the Consumer Forum to take notice of Section 24A and give effect to it. If the complaint is barred by time and yet the Consumer Forum decides the complaint on merits, the Forum would be committing an illegality and, therefore, the aggrieved party would be entitled to have such order set aside. "

The observations made by the Hon "ble Supreme Court in the above-mentioned case, neatly dovetails with the view taken by this Commission. Consequently, this petition is accepted and the complaint filed by the respondent is dismissed on the ground of being time barred. However, there shall be no order as to costs. Petition allowed.