(1999) 01 NCDRC CK 0045

In the National Consumer Disputes Redressal Commission

STUDY CIRCLE APPELLANT

Vs

Punjab National Bank RESPONDENT

Date of Decision : 07-01-1999

Acts Referred:

Citation : 1999 1 CPC 524 : 1999 2 CPJ 47

Hon'ble Judges : S.K.Dubey , Saroj Rajwade J.

Final Decision : Complaint dismissed

Judgement

1. THIS is a complaint filed on the original side by Study Circle for and on behalf of Nayak Karnail Singh alleging deficiency in service on the part of opposite party Punjab National Bank in that they failed to advance the loan to him as per the scheme drawn up to help rehabilitation of people affected by loot and arson following assassination of Former Prime Minister of India, Mrs. Indira Gandhi on 31.10.1984. The complainant has pointed out several failings on the part of opposite parties and has prayed for award of approximately 8 lakhs of rupees as per details given in para 8 of his complaint.

2. THE facts of the case leading to this complaint can be briefly narrated as follows : Complainant is an ex-serviceman, who retired from the Army in 1980. From the money received by him by way of pension and gratuity he opened "Lovely Hotel and Restaurant" and "Bharat Auto Sales and Service" and was carrying on this business in Shivpuri as on 31.10.1984. On this day, following the assassination of Smt. Indira Gandhi riots broke out all over India and Shivpuri did not remain untouched. In these riots, several Sikh families were victims of loot and arson and complainant was one of the sufferers. His business premises were looted and burnt and he allegedly suffered a loss of about Rs. 85,000/-. Complainant lodged an FIR in Police Station, Shivpuri on 2.11.1984. Government of India issued instructions to the State Government of Madhya Pradesh to help the riot sufferers to rehabilitate themselves. State Government issued directions to all Collectors in this regard. Collector, Shivpuri instructed the respondent Punjab National Bank to advance loans to riot sufferers on a priority basis.

Collector organized a meeting of all Bankers with the District Industries Centre and Bankers were adviced to sanction loan as per scheme drawn up by District Industries Centre. Complainant has alleged that opposite party (Punjab National Bank) did not take desired interest in the matter so much so that opposite party took almost six monthly to scrutinize the scheme for advancing loan of 61,000/- Rupees. Complainant also alleged that Manager wanted a bribe of Rs. 10,000/- to sanction the loan, since complainant did not agree, the Manager agreed to sanction loan of Rs. 25,000/- only. Several complaints to higher ups in Punjab National Bank did not produce any result inspite of assurances. This is the first part of the complaint. Second part relates to writing off of this loan and the interest that secured on it in following years. Complainant has alleged that inspite of his requests the Bank did not write off the amount outstanding against his name till 31.10.1993 in accordance with the instructions of Government of India and Reserve Bank of India. He, therefore, filed this complaint on 8.11.1995 and prayed for directions mentioned in para 1 above. Opposite party Nos. 1 and 2 filed their reply on 4.3.1994 and in this they denied the allegations of the complainant as false and baseless. They averred that on scrutiny of the loan proposal of the complainant, it was found that as per guidelines of the Bank only Rs. 25,000/- could be sanctioned to him and this amount was sanctioned accordingly. Regarding allegations about writing off the accumulated amount of loan and interest, opposite party averred that they did write off the whole amount and intimated the complainant on 4.3.1994. Opposite parties have attached photocopy of this letter dated 4.3.1994 in which the complainant had been informed that "nothing was due against him on this account". Opposite parties further averred that this was the no dues certificate issued on 4.3.1994 in accordance with the instructions of Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division) dated 16.6.1993 and in the proforma prescribed in these instructions. Opposite parties further averred that in terms of Government of India Circular, Bank was entitled to reimbursement of Rs. 44,750/- from Central Government and hence this sum was shows written off separately. Remaining amount of Rs. 10,258/- out of the total outstanding amount of Rs. 55,008/- was written off by Bank as per their own procedure as per Reserve Bank guidelines. The manner in which these amounts were shown separately as per orders might have created confusion in the mind of complainant. This is probably the reason why in his complaint and during hearing he alleged that Bank contended to show amount outstanding against him. However, we did not find any document which would suggest that complainant approached the opposite party to get clarification regarding the amount still outstanding against him. He repeatedly asked for "no dues certificate'' and the opposite party sent him a copy of no dues certificate issued by them on 4.3.1994 vide their letter dated 27.3.1996. We, therefore, held that Bank only carried out instructions and hence there was no deficiency in service on their part.

As regards the allegations about loss suffered by complainant because of non-issue of ''no dues certificate'' opposite parties denied it totally on the grounds that such certificate was already issued on 4.3.1994 and hence it was not necessary to issue it again. They further averred that complainant did not at any time mentioned to them about his intentions to take loan from any other Bank or financial institution. Finally opposite party-Bank averred that it was prerogative of the Bank to grant a loan or not to grant it and hence complainant is not entitled to any compensation.

3. IN the matter of grant of loan, financial accommodation, the financial institutions exercise their discretion in accordance with their best judgment after taking into consideration relevant factors. If the loan or financial accommodation is not granted after taking into consideration relevant factors, it cannot be said that there was any deficiency of service as defined in Section 2(1)(g) of the Act. The question was considered in case of Vimal Chandra Grover v. Bank of INdia, II (1996) CPJ 159 (NC)=1986-97 Consumer 2377, the National Commission in para 16 observed thus : "Complaints by borrowers from Bank against failure to provide adequate facilities to an industry or business cannot form subject matter of adjudication under the Act since in the matter of grant or with holding of further advances and insisting in margin money etc. the Bank have to exercise their discretion and act in accordance with their best judgment after taking into consideration various relevant factors and hence mere failure to provide financial facility or assistance cannot be said to constitute deficiency of service as defined in Section 2(1)(g) of the Act."

Hon''ble National Commission has made similar observations in another case Mrs. Viswalakshmi Sasidharan & Others v. The Branch Manager, Syndicate Bank, I (1996) CPJ 191 (NC)=1986-96 Consumer 2812 (NS).

4. IN this case also opposite party-Bank has after scrutiny of loan proposal found that loan of Rs. 25,000/- only could be advanced and they sanctioned the loan accordingly. Similarly while writing off the accumulated amount of loan and interest, they followed the guidelines of Government of INdia and Reserve Bank of INdia and issued the ''No dues Certificate'' on 4.3.1994. Therefore, we do not think the Bank is guilty of deficiency of service. Also the allegations about the complainant suffering loss because of non-issue of ''No dues Certificate'' is found to be baseless. Complainant could not demonstrate that he had applied for loan elsewhere and was asked to furnish ''No dues Certificate'' from respondent or for that matter, the other institution considered the ''No dues Certificate'' issued by respondent as improper or inadequate. We, therefore, hold that respondent is not guilty of deficiency in service and consequently no relief can be given to the complainant. We feel it our duty to mention that complainant has our sympathies because he had to settle down all over again twice within 40 years. However, we can perform our duty within the ambit of powers as per law in force. As observed by National Commission sympathy cannot override the law. The complaint therefore, fails and is dismissed out with no order as to costs. Complaint dismissed.

