(2012) 08 NCDRC CK 0013

In the National Consumer Disputes Redressal Commission

Supdt. Of Post Office, Bhandup, Mumbai APPELLANT

Vs

Ascharya Lal Sadana RESPONDENT

Date of Decision : 30-08-2012

Acts Referred:

Citation : 2012 0 NCDRC 875

Hon'ble Judges : ASHOK BHAN , VINEETA RAI J.

Final Decision : Revision Petition dismissed

Judgement

1. PETITIONERS which were the opposite parties before the District Forum have filed these Revision Petitions against the judgment and order dated 27.08.07 passed by the State Consumer Disputes Redressal Commission, Maharashtra (in short, ''the State Commission '') in appeal nos. 2503/06 and 67/07 whereby the State Commission while dismissing the appeal filed by the Petitioners has allowed the appeal filed by the Respondents and directed the Petitioners to pay Rs.9,384/- in respect of account No. 13337 and Rs.2,79,590/- in respect of the account No. 13347 to the Respondents along with bonus as per rules of MIS Scheme of the Postal Department. Rs. 10,000/- were awarded towards compensation. Briefly stated the facts of the case are that Complainant No. 1 Mr. Ashecharya Lal Sadana & Complainant No. 2 Mrs. Lajwanti Sadana invested Rs. 4,08,000/- in MIS Scheme of Postal Department on 15.04.1998 (Account No. 13337). Complainant No. 4, Mr. Anshul Sadana & Complainant No. 1, Mr. Ashcharya Lal Sadana invested Rs. 4,08,000/- in MIS Scheme of Postal Department on 17.04.1998 (Account No. 13347). Mr. Aseem Sadana & Complainant No. 2, Lajwanti Sadana invested Rs. 4,08,000/- in MIS Scheme of Postal Department on 15.04.1998 (Account No. 13336). The agreed rate of interest was 13% p.a.

2. AS per rules, Complainant No. 1 and 2 could not jointly invest more than Rs. 4,08,000/- in MIS Scheme. After realizing that there were some common names in the accounts, the Petitioners immediately rectified the discrepancies as follow: - A/cNo.13337 A/cNo.13336 A/cNo.13347 Account open on 15/4/98 Account

open on 15/4/98 Account open on 17/4/98 In the Name of Ashcharya Lal Sadana and Lajwanti Sadana In the. name of Aseem Sadana and Lajwanti Sadana In the name of Anshul Sadana and Ascharya Lal Sadan RECTIFICATION MADE BY THE PETITIONER IN MAY, 1998 A/cNo.13337 A/cNo.13336 A/cNo.13347 Rectified on 14/5/98 (Pg.64) Rectified on 14/5/98 (Pg.44) Rectified on 14/5/98 '' In the Name of Ashcharya Lal Sadana and Nand Lal Sadana In the name of Aseem Sadana and Seejal Sadana In the name of Anshul Sadana and Lajwanti Sadan

As per rectification, Complainant No. 1 and Complainant No. 3, Nand Lal Sadana were shown as joint account holders of Account No. 13337. Complainant No. 4 and Complainant No. 2 were shown as joint account holders of Account No. 13347. Mr. Aseem Sadana and Mrs. Sejal Sadana were shown as joint account holders of Account No. 1336. Each amount was within the prescribed limit meant for the joint account holders under the MIS Scheme. This rectification/ regularization was made by the Petitioner Postal Department. Petitioners paid interest @ 13% p.a. to the joint account holders for period of four years without any objection. Later Account No. 1336 was settled by the Postal Department. Respondents shifted from Chembur to Andheri. They applied for transfer of joint accounts to Andheri. However, the Petitioner did not transfer the joint accounts and raised objection to the effect that the account should have been closed as per Rules in the month of May 1998 when the mistake was noticed. Petitioner Postal Department locked all the joint accounts and asked the joint account holders to refund interest amount of Rs. 1,03,870/-. According to the Petitioners, joint account holders were not entitled to get interest to the tune of Rs. 1,03,870/-. Complainants/Respondents, being aggrieved, filed the complaint before the District Forum.

3. PETITIONERS , on being served, entered appearance and filed its written statement resisting the complaint mainly on the ground that the Respondents opened the joint accounts contrary to the Rules and Regulations. That the correct procedure for rectification of mistake was to close the accounts and to refund the principal amount deducting the interest, if paid. That there was no provision for regularization or substitution of the names.

4. DISTRICT Forum allowed the complaint and directed the Petitioners to transfer MIS account Nos. 13337 and 13347 to Head Post Office, D.N. Nagar, Andheri within one month failing which the '' Petitioners would be liable to pay penalty of Rs. 1,000/- per month. Rest of the reliefs were rejected. District Forum held as under: - "If there was any investment beyond the prescribed limit, and if any interest accrued thereon, and if the argument of the opponent is accepted, it is not clear, under what provisions, the Opponent can retain such interest and under what provision, it can be appropriated with the Government. Under such circumstances, the opponents cannot seek back the already paid interest of Rs.1,03,870/- from the complainants. In the circumstances, the opponents are liable to transfer those two accounts, as requested by the complainants, within a specified period, form the date of receipt of this order i.e. within one month. In

case of delay, the opponents are liable to pay penalty of Rs.1,000/- per month. "

Feeling aggrieved by the order of the District Forum, both the parties preferred appeals before the State Commission. Respondents filed the appeal no. 2503/06 seeking enhancement of the compensation while the appeal No.67/07 was filed by the Petitioners for setting aside the order.

5. STATE Commission allowed the appeal filed by the Respondents and directed the Petitioners to pay Rs.9,384/- in respect of account No. 13337 and Rs.2,79,590/- in respect of the account No. 13347 to the Respondents along with bonus as per rules of MIS Scheme of the Postal Department. Rs. 10,000/- were awarded towards compensation. Appeal filed by the Petitioners was dismissed by observing as under: - "The stand taken by the Postal Department does not appeal to the reasons. Such type of mistake cannot be rectified is a strange proposition. Every mistake has a remedy. The mistake committed by the joint account holders when brought to the notice of the Postal Department was immediately rectified by using old passbooks. The mistake was regularisied by Postal Department itself. The name of Mr. Ascharya Lal Sadana and Mrs. Lajwanti Sadana stands deleted from passbooks. This rectification was made by the Postal Department by making suitable changes using red ink in the passbook. The common name of joint account holders to which objection was raised stands deleted. Correct entries made. After rectification, Mr. Ashcharya Lal Sadana and Mr. Nand Lal Sadana are shown to have held joint account No.13337. Mr. Anshul Sadana and Mrs. Lajwanti Sadana are shown to have held joint account No.13347. Mr. Aseem Sadana and Mrs. Sejal Sadana are shown to hold joint account no.13336. This rectification was made in May, 1998. It is material to note that the Postal Department acted upon the rectification and paid interest to all the joint account holders for period of four years in succession. The subsequent stand taken by the Postal Department is contrary to their own act of rectification. The subsequent Post Master should have honoured the rectification, which was carried out in May, 1998. When the mistake was realized, the joint account holders immediately moved the Postal Department for rectification of the joint accounts. It was the duty of the Postal Department to follow the prescribed procedure and to issue fresh passbooks with new account numbers. Failure to do so is a deficiency on the part of the Postal Department. The innocent persons cannot be blamed for the act of Post Master, who rectified the mistake. "

6. PETITIONERS , being aggrieved, have filed the present Revision Petitions. We have heard the learned counsel for the parties at length. Learned Counsel appearing for the Petitioners contends that the State Commission had erred in ignoring the fact that the Respondents had intentionally, knowingly and irregularly invested excels amount in the MIS in contravention of the rules and to compound the irregularity they have got changed the names of the depositors with intention to regularize their investment by hook or by crook to earn the interest offered by the Government at higher rate. He further submits that there was no provision for substituting and/or regularizing any account under the

Monthly Income Scheme and the. Respondents were in fact legally bound to clear the accounts instead of sending some person to regularize such accounts. That as per order No.110-23/2001-SB dated 7.1.2003 which is applicable to MIS account, in case of irregularly opened account by exceeding prescribed limits, the same are required to be closed and the amount deposited have to be refunded with saving bank interest after deducting interest paid to the account holder and the said irregular account cannot be regularized by any substitution/amendment. In support of his contentions, Ld. Counsel for the Petitioners relied upon the two judgments of the Hon ''ble Supreme Court in the cases of Post Master, Dargamitta, HPO, Nellore v. Raja Prameelamma (Ms.), (1998) 9 SCC 706 and Arulmighu Dhandayudhapaniswamy Thirukoli, Palani, Tamil Nadu v. Director General of Post Offices, III (2011) CPJ 25 (SC)=AIR 2011 SC 2604. As against this, Ld. Counsel for the Respondents supports the order passed.by the State Commission. The facts are not disputed before us. In April, 1998, Respondents had opened, certain joint accounts and invested Rs:4,08,000/- in each of accounts. Petitioners corrected the accounts in May, 1998 and brought them in conformity with law. Complainants, thereafter, shifted from Chembur to Andheri in August, 2000 and applied for transfer of accounts to Andheri. Petitioner did not transfer the accounts and locked two out of three joint accounts asking the joint holders to refund interest amount of Rs. 1,03,870/- on the ground that accounts were opened contrary to the rules and regulations and the correct procedure for rectification of mistake was to close the accounts and refund the principal amount deducting the interest, if any. That there was no provision of regularization and substitution of the names. We do find substance in the submission made by the Ld. Counsel appearing for the Petitioners as the accounts were regularized immediately by the Petitioners themselves after noticing the mistake committed by them. The accounts were opened in April, 1998 whereas the correction was made in May 1998. In such circumstances, refusal of the interest and the benefit accrued therefrom by-the Petitioners is illogical besides being illegal and against the law. Judgments relied upon by the Petitioners are not applicable to the facts of the present case as the accounts were immediately corrected by the Department itself and discrepancies removed. Department paid the interest for the 4 years and the objection raised by -the Petitioners after 4 years when the Respondents sought the shifting of the accounts from Chembur to Andheri in August, 2000 was not sustainable.

7. FOR the reasons stated above, we do not find any merit in these revision petitions and dismiss the same with costs which are assessed at Rs. 15,000/-. Revision Petition dismissed.