(2015) 04 NCDRC CK 0262

In the National Consumer Disputes Redressal Commission

Case No : 4003 of 2010

SUPDT. OF POST OFFICES & ORS. APPELLANT

Vs

JHARNA BURMAN & ANR RESPONDENT

Date of Decision : 09-04-2015

Acts Referred:

Consumer Protection Act, 1986, Section 21, Section 19, Section 15, Section 17 - Jurisdiction of the National Commission - Appeals - Appeal - Jurisdiction

Citation : (2015) 04 NCDRC CK 0262

Hon'ble Judges : V.K. Jain, B.C. Gupta

Advocate : Mahipal Singh Rajput, Sharique Hussan

Judgement

1. The complainant/respondent deposited an account payee cheque of Rs.20,035/- drawn on HDFC Bank, Haldia in her account with the post office. The aforesaid cheque was allegedly sent by the post office to the State Bank of India, P.O. Tamluk, District Purba Midnapore for being presented to HDFC Bank through clearing house. However, the payment of the aforesaid amount was not credited to the account of the complainant. Being aggrieved and alleging deficiency on the part of the opposite parties i.e. the Post Office, SBI, Tamluk and HDFC Bank, Haldia, he approached the concerned District Forum by way of a complaint.

2. The complaint was contested by opposite party No.2, Superintendent of Post Office, Midnapore, on the ground that the cheque deposited by the complainant on 07-02-2007 was an invalid cheque and despite having sent the same to Tamluk Head Post Office no information was received by them regarding encashment of the said cheque.

3. Vide its order dated 28-08-2009 the concerned District Forum directed the opposite parties to credit the amount of the cheque to the account of the complainant along with interest at the rate of 10% per annum with effect from 01-03-2007. They were further directed to pay Rs.5,000/- as compensation to

the complainant.

4. Being aggrieved from the order passed by the District Forum, the petitioner Post Office approached the concerned State Commission by way of an appeal. The said appeal having been dismissed vide impugned order dated 09-07-2010, they are before us by way of this revision petition.

5. It would, thus, be seen that the only plea taken by the petitioner before the District Forum was that the cheque when presented by the bank was invalid since it was presented more than three months after it was issued.

6. The cheque in question has not been placed on record by the petitioners. Ordinarily the validity of a cheque is six months from the date on which it is issued. Therefore, in the absence of any endorsement to the contrary on the cheque, if issued on 06-11-2006, it would be valid on 22-02-2007. Moreover, as rightly noted by the District Forum if the cheque was invalid it ought not to have been accepted by the petitioners when presented to them and should have been returned to the complainant. That admittedly also was not done.

7. The learned counsel for the petitioner states that in fact the cheque was sent by them to SBI, Tamluk. Attention in this regard is drawn to the letter dated 09-02-2009 sent to the Branch Manager, SBI, Tamluk and some other letters. In our opinion, if the failure of the petitioner to credit the amount of the aforesaid cheque to the account of the complainant was on account of some negligence on the part of the SBI, Tamluk, it would be open to the petitioners to claim and recover the amount which they paid to the complainant in compliance of the order of the fora below from the said bank. But, considering that the cheque was deposited by the complainant with them and not with SBI, they cannot escape their liability to reimburse him for the loss sustained by him on account of the amount of the cheque having been credited to his account.

8. The learned counsel for the petitioners submits that the amount of the cheque has since been paid to the complainant in compliance of the order passed by the District Forum and now only interest remains to be paid. If that is so, the petitioner need to pay only the interest calculated in terms of the order of the District Forum to the complainant and then they can take steps to recover the principal amount as well as interest from SBI in case payment made by them can be attributed to some negligence on the part of the State Bank of India. We find no merit in the revision petition and the same is hereby dismissed. No order as to costs.