

(2011) 07 NCDRC CK 0046

In the National Consumer Disputes Redressal Commission

Superintendent of Post Office Cooch Behar Division R.R.N.
Road P O And District

APPELLANT

Vs

Amal Kumar Deb

RESPONDENT

Date of Decision : 13-07-2011

Acts Referred:

Citation : 2011 0 NCDRC 398 : 2011 3 CPR 227 : 2011 4 CPJ 94

Hon'ble Judges : R.K.Batta , Anupam Dasgupta J.

Advocate : Archana Gaur , Arbind Kumar , Dinhata

Judgement

1. THIS revision petition challenges the order dated 5th August 2010 of the West Bengal State Consumer Disputes Redressal Commission, Kolkata (in short, the State Commission) in Appeal No.460 of 2009. By this order, the State Commission dismissed the appeal of the petitioner against the order of the District Consumer Disputes Redressal Forum, Cooch Behar (in short, the District Forum) in complaint case no. DF 85 of 2007.

2. THE facts are that the respondent/ complainant have purchased six National Savings Certificates (NSCs) (or, Kisan Vikas Patras unclear) from the Head Post Office, Cooch Behar on different dates as detailed below:

S.	No.	Amount in Rs.	Date of Issue	Name of the Purchaser
1.	6NS/35EE 367679	10,000/-	27.05.2003	Amal Kr. Deb
2.	6NS/35EE 367680	10,000/-	27.05.2003	Amal Kr. Deb
3.	6NS/35EE 367681	10,000/-	27.05.2003	Amal Kr. Deb
4.	6NS/35EE 367682	10,000/-	27.05.2003	Amal Kr. Deb
5.	6NS/20EE 200017	10,000/-	28.07.2001	Amal Kr. Deb
6.	6NS/20EE 367616	10,000/-	28.07.2001	Amal Kr. Deb

Sometime in 2005, the respondent approached the United Bank of India (in short, the UBI), Cooch Behar Branch for a loan against hypothecation of the above-mentioned Certificates. The loan was sanctioned in August 2005 and was disbursed to the respondent/ complainant against hypothecation and physical deposit of the above-mentioned Certificates with the UBI. The respondent/ complainant repaid the installments of the loan regularly. The loan account was

closed on 13th October 2006. Under its clearance certificate dated 29.09.2007 the UBI later clarified that the loan account of the respondent/ complainant had been closed. It is the case of the respondent/ complainant that the six Certificates physically deposited with the UBI, Cooch Behar Branch were actually handed over to him on closure of his loan account by the UBI Branch for suitable entry and release by the Head Post Office, Cooch Behar. On 30.11.2006, the respondent/complainant deposited Rs. 5/- each for releasing the four Certificates of May 2003 and Rs.10/- for release of the remaining 2 Certificates of July 2001. The receipts of these amounts of Rs.10/- and Rs.20/- were duly issued by the Post Office on 30.11.2006. Thus, all the six Certificates were re-deposited in original with the Head Post Office, Cooch Behar by the respondent/complainant. The Certificates bearing numbers 6NS/20 EE 200017 dated 28.07.2001 for Rs.10,000/- and 6NS/20EE 367616 dated 28.07.2001 for Rs.10,000/- were admittedly returned to the respondent/complainant on 05.12.2006 and the maturity amount (Rs.35,106/-) of these two Certificates was also paid by the Head Post Office in July 2008. However, the remaining four Certificates (each dated 27.05.2003 for Rs.10,000/-) were not physically released and handed over back by the Head Post Office to the respondent/complainant nor was their maturity amount paid. The respondent/complainant, therefore, made representation dated 28.09.2007 for release of the aforesaid Certificates and followed this up with a lawyers notice. However, this did not elicit any response which led to the respondent/complainant to file a complaint with the District Forum.

After consideration of the matter, the District Forum passed the following order: The complaint dated 22.11.2007 of the complainant is allowed on contest with v cost of Rs.2000/-. The OPs are directed to release the 4 NOS of NSCS being no. 6 NS/ 35 EE 367679 of Rs.10,000/-, 6 NS/ 35 EE 367680 of Rs.10,000/-, 6 NS/ 35 EE 367681 of Rs.10,000/- 6 NS/ 35 EE 367682 of Rs.10,000/- vide Registration No. 32696 and to pay the amount to the complainant as per prescribed interest of NSC and per rule of Department of Posts and also to pay compensation of Rs.20,000/- towards harassment, mental pain to the date of its payment within 2 months from the date of this order and in default a penal interest @ 9% per annum shall be levied upon the unpaid amount till realization.

3. THIS order was challenged in appeal by the petitioners before the State Commission, leading to the appeal being dismissed under the order of the State Commission now impugned before us. We have heard Ms. Archana Gaur, learned Counsel and Mr. Arbind Kumar, Sub Divisional Inspector, IPO, Dinhata on behalf of the petitioners and the respondent/complainant in person and carefully considered the records.

4. THE respondent/ complainant has produced along with the written note of his submissions, a letter dated 31.10.2006 of the UBI, Cooch Behar Branch addressed to the Post Master, Head Post Office, Cooch Behar regarding reassignment of the two older certificates dated 28.07.2001. He has also

produced a letter dated 11.04.2008 from the same Bank which is reproduced below: Ref: COO/ ADV/ 2009 11.04.2008 To Shri Santosh Kumar Sah, Advocate Cooch Behar Cooch Behar Bar Association, Cooch Behar Dear Sir, Re: Release of NSC in the name of Mr. Amal Kr. Deb Ref: Your letter dated 07.04.2008 In response to your letter as referred above, the undersigned writes to inform you that the NSCs as per following detail were released to Mr. Amal Kr. Deb on closure of his loan account with this Branch and the same were delivered to him with a letter addressed to the Post Master, Cooch Behar Head Post Office requesting them to vacate our charge on the NSCs and to deliver the same to Mr. Deb.

Description of NSCs	Date	No.	Denomination	Name
27.05.2003	35	EE 367679	10,000	Amal Kr. Deb
-do-	35	EE 367680	10,000	-do-
-do-	35	EE 367681	10,000	-do-
-do-	35	EE 367682	10,000	-do-
28.07.2001	20	EE 200017	10,000	-do-
-do-	20	EE 200016	10,000	-do-

Yours faithfully, Branch Manager

Considering this letter in conjunction with the two acknowledgements dated 30.11.2006 issued by the Post Office with the endorsement, Purpose of release of NSCs, it is quite clear that all the six Certificates were handed over to the respondent by the UBI in two lots along with separate forwarding letters on the same date and both sets of Certificates were tendered by the respondent/ complainant to the Head Post Office on 30.11.2006 along with the necessary amount for their re-assignment and return to him. While the two older Certificates dated 28.07.2001 were handed over to the respondent/complainant, after necessary action by the Head Post Office, the four remaining Certificates were not released back to him. This position was discussed and considered in detail during the arguments before us, as reflected in our order dated 12.05.2001, Bench, which reads as under: During the course of arguments, Counsel for the petitioner, on instructions from Mr. Arbind Kumar who is present in the Court, has stated that the petitioner is ready to pay the maturity amount of four NSCs subject to the respondent furnishing indemnity bond. She further states that beyond the period of maturity, the petitioner is ready to pay interest @ 9% per annum on the said amount.

5. IN view of the statement made, under instruction, by the Counsel for the petitioners, we dismiss the revision petition and, in partial modification of the impugned order of the State Commission and the award of the District Forum, direct that the maturity amount of each of the four Certificates of Rs.10,000/- issued in May 2003 be duly paid to the respondent along with interest @ 9% per annum from the date following the date of maturity till the date of payment, after obtaining suitable indemnity bond from the respondent/complainant. Payment may be made within four weeks from the date of this order failing which the total amount (comprising the maturity amount and interest thereon, as mentioned above) shall carry interest @ 15% per annum from the date of this order till payment. IN the circumstances of the case, the parties are left to bear their own costs.