(2010) 04 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

Superintendent Of Post Offices East Division Vadodara APPELLANT

Vs

Helpline Grahak Mandal RESPONDENT

Date of Decision : 16-04-2010

Acts Referred:

Citation : 2010 3 CPJ 103 : 2010 3 CPR 34

Hon'ble Judges : K.S.Gupta , R.K.Batta J.

Final Decision : Revision Petition allowed.

Judgement

1. MR. Justice R.K. Batta, Member-Notice of revision was issued to the respondent No. 2/complainant who was informed that the matter may be finally disposed of at the admission stage itself. Notice has been duly served on the respondent No. 2/complainant, but no one has put in appearance on his behalf.

2. THE complainant had purchased National Saving Certificates in the name of Bhaskarbhai A. Patel (HUF) for Rs. 60,000 on 13.6.2000. The amount payable on the date of maturity i.e. 17.6.2006 was Rs. 1,14,072. The OP refused to pay interest as shown in the certificates on the ground that the certificates could not be issued in favour of HUF in view of Rule 4 of the National Saving Certificates (VIII Issue) Rules, 1989. The OP, therefore, paid the sum of Rs. 60,000 with saving bank''s interest. The complainant, therefore, approached the District Forum to pay the balance amount under the said certificates as also Rs. 5,000 for mental agony and Rs. 3,000 as costs. The District Forum had allowed the complaint partly and directed the OP to pay remaining amount of Rs. 39,900 with 9% interest from 17.6.2006 till realization. OP was further directed to pay 9% interest on Rs. 74,172 already paid from 17.6.2006 till actual payment. Besides this, Rs. 3,000 were awarded for mental agony and inconvenience and further sum of Rs. 1,500 towards cost.

3. THE appeal filed by the present petitioners was dismissed by the State Commission.

4. WE have heard learned Counsel for the petitioners, who relied upon Rule 4 of

the National Saving Certificates (VIII Issue) Rules, 1989 as also the orders of this Commission, including the order dated 23.10.2009 in the case of The Chief Post Master, Chennai and Anr. v. M/s. Sun Beam Courier Pvt. Ltd., and order dated 23.10.2009 in the case of Shri Gurudatta Zilha Parishad Employees Co-operative Patsanstha Ltd. v. Sub Post Master, Post Office, Paranda, to which one of us (R.K. Batta, J.) was a party. He submitted before us that saving bank interest has already been paid to the complainant on the certificates in question and that the orders of Fora below are required to be set aside.

5. THE certificate in question had been issued in contravention of Rule 4 of the National Saving Certificates (VIII Issue) Rules, 1989, which reads as under: "4. Types of Certificates and Issue thereof-(1) The certificates shall be of the following types, namely- (a) Single Holder Type Certificates; (b) Joint ''A'' Type Certificates; and (c) Joint ''B'' Type Certificates. (2) (a) A Single Holder Type certificate may be issued to:- (i) an adult for himself or on behalf of a minor or to a minor. (ii) a trust. (b) A Joint ''A'' Type certificate may be issued jointly to two adults payable to both the holders jointly or to the survivor. (c) A Joint ''B'' Type certificate may be issued jointly to two adults payable to either of the holders or to the survivor. [Rule amended vide MOF (DEA) Notification No. GSR 120(E) dated 8.3.1995 effective from 1.4.1995]."

From the above Rule it is clear that National Saving Certificates could not be purchased by HUF.

6. IN the case of The Chief Post Master, Chennai and Anr. v. M/s. Sun Beam Courier Pvt. Ltd. (supra), it was found that the respondent firm had purchased the National Saving Certificates in contravention of Rule 4 of the National Saving Certificates (VIII Issue) Rules, 1989. It was held that the order passed by the Fora below could not be sustained in view of the judgment of the Hon''ble Supreme Court in Postmaster, Dargamitta H.P.O., Nellore v. Raja Prameeelamma (MS), 1998 (9) SCC 706, wherein it was held as under: "Postmaster, Dargamitta H.P.O., Nellore v. Raja Prameeelamma (MS), 1998 (9) SCC 706, wherein it has been held as under: Inadvertent omission on the part of clerical staff of Post Office to correct the old rate of interest and maturity value on the NSCs which were sold after the issuance of said notification, held, did not amount to deficiency in service. As regards the contract, no doubt the sale of National Savings Certificates with the terms and conditions embodied thereon constitutes a contract between the Government of India as seller and the holders of the National Savings Certificates. But as this contract was contrary to the terms notified by the Government of India and, this was due to inadvertence of the staff. In my opinion, it does not become a contract binding the Government of India being unlawful and void. As such this is not a case of deficiency in service either in terms of the law or in terms of the law or in terms of the contract as defined in Section 2(1)(g) of the Consumer Protection Act, 1986."

(Emphasis supplied)

7. IN the said case directions were given to pay 6% interest since the Finance Ministry had agreed to pay the same in a similar earlier matter.

8. IN the case before us savings bank interest has already been paid to the complainant on the National Saving Certificates. The National Saving Certificates were issued in contravention of Rule 4 of the said Rules.

9. IN view of the above, we are of the opinion that the orders of the Fora below cannot be sustained and the orders are required to be set aside. In view of the above, the Revision is allowed and the complaint stands dismissed. In the facts and circumstances, there shall be no order as to costs. Revision Petition allowed.