

(2016) 04 NCDRC CK 0004

In the National Consumer Disputes Redressal Commission

Case No : 577 of 2015

THE SR. SUPERINTENDENT OF POST OFFICES,

APPELLANT

Vs

MODI (HUF) KARTA BRIG.,

RESPONDENT

Date of Decision : 08-04-2016

Acts Referred:

Consumer Protection Act, 1986, Section 21(b) - Jurisdiction of the National Commission
Consumer Protection Regulations, 2005, Regulation 14

Citation : 2016 2 CPR 577

Hon'ble Judges : D.K. Jain, M. Shreesha

Advocate : S.M. Arif, Shabnam Perween, M.K. Modi

Judgement

1. This Revision Petition, under Section 21(b) of the Consumer Protection Act, 1986 (for short "the Act"), has been filed by the Sr. Superintendent of Post Offices, Ghaziabad Division, Ghaziabad, U.P. and its Associate at Noida, the Opposite Parties in the Complaint, against the order, dated 27.01.2014, passed by the Uttar Pradesh State Consumer Disputes Redressal Commission at Lucknow (for short "the State Commission") in First Appeal No. 804 of 2010. By the impugned order, the State Commission has affirmed the view taken by the District Consumer Disputes Redressal Forum at Noida (for short "the District Forum") to the effect that there was deficiency in service on the part of the Petitioners in not paying the maturity value of the accounts opened by the Complainant with them under the Monthly Income Scheme and consequently dismissed the Appeal.

2. The Appeal had been preferred by the Petitioners against the order, dated 09.04.2010, passed by the District Forum in Complaint No. 287 of 2009, filed by the Complainant. By the said order, the District Forum, had held that there was deficiency in service on the part of the Petitioners in not paying the maturity value of the Monthly Income Scheme accounts opened by the Complainant and consequently while partly allowing the Complaint had directed the Petitioners to

pay to the Complainant a sum of 46760/-, being the maturity value of account no.16217/-, and to calculate the total amount to be paid to the Complainant under Accounts No.16793, 16985 and 18456 up-to 10.05.2009 and to pay the same besides 1000/- as litigation expenses.

3. Being unsuccessful before the State Commission, in the afore-noted Appeal, the Petitioners are before us in the present Revision Petition.

4. It is pointed out by the office that the Revision Petition is barred by limitation, inasmuch as there is a delay of 305 days in filing the same. An application praying for condonation of the said delay has been filed alongwith the present Revision Petition. In paragraphs no. 3 to 6 of the said application, a short and crisp explanation for the delay has been furnished, which reads as under: "3. That the said Order dated 27.01.2014 was received by the petitioners on 03.02.2014. Therefore, the accompanying petition is not within the stipulated period of time, hence, the present M.A. for condonation of delay.

4. That after receiving the certified copy of the Order dated 27.01.2014, the petitioners have referred the matter to the competent authority for taking the appropriate decision in the matter, which had taken a considerable time.

5. That the competent authority was of the opinion that a revision petition should be filed against the order dated 27.01.2014 before the Hon"ble Commission. Hence, the present petition.

6. That the matter was referred to the Government Counsel for preparation of the revision petition, however, during that period, it was detected that his wife is suffering from Cancer, therefore, the revision petition was not drafted by him in time."

5. We have heard learned counsel for the Petitioners on the question of delay.

6. In our view, the explanation furnished by the Petitioners is wholly vague and unsatisfactory. Admittedly, on 03.02.2014 the Petitioners had received the copy of the impugned order. Yet, they did not take any steps to file the Revision Petition within the statutory period of 90 days, as stipulated in Regulation 14 of the Consumer Protection Regulations, 2005, and ultimately filed the same on 05.03.2015, with a delay of 305 days, for which, in our view, there is absolutely no explanation. As noted above, the short explanation, viz., the Petitioners had referred the matter to the Competent Authority for taking a decision in the matter, which had taken a considerable time; the Competent Authority was of the opinion that a Revision Petition should be filed against the impugned order; the matter was referred to the Government Counsel for preparation of the Revision Petition; and during that period, it was detected that his wife was suffering from Cancer, is a self-serving explanation, which is conspicuously silent about the dates of aforesaid developments in the matter. As regards the plea of ailment of the Counsel's wife, it is also not supported by any documentary evidence. In the absence of these details, it can safely be inferred that even after receiving the

certified copy of the impugned order on 03.02.2014, the Petitioners were not at all interested in challenging the orders passed by the For a below, whereby certain liability had been imposed upon them. They did not show any seriousness in processing the file expeditiously to ensure that the Revision Petition was filed within time. The Petitioners have not shown any cause, much less a "sufficient cause" for the said delay. We have no hesitation in observing that the explanation furnished is an example of indifferent and lax attitude of a government instrumentality.

7. Recently, in *Postmaster General and Ors. V. Living Media India Ltd. & Anr.*, (2012) 3 SCC 563, the Hon'ble Supreme Court has been pleased to observe as under :

"28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/ years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

8. We feel that despite the afore-extracted observations in the case of the Petitioner Department itself, the Petitioners have still not learnt their lesson and continue to function in the same archaic manner. It is also pertinent to note that despite seven opportunities being granted to the Petitioners to cure the defects, pointed out by the office, the same have not been cured. For all these reasons, we are not inclined to condone an inordinate delay of 305 days in filing of the present Revision Petition, more so, when condonation of such an unexplained and long delay would cause further harassment to the Complainant, who, on deposit of his hard earned money with the Petitioners more than a decade ago, is still waiting for justice being rendered to him.

9. Consequently, the Revision Petition is dismissed in limine on the ground of inordinate delay.