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**(2013) 04 NCDRC CK 0074**

**In the National Consumer Disputes Redressal Commission**

Treasury Officer, Treasury Office Tonk

APPELLANT

Vs

Badri Prasad Sharma

RESPONDENT

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**Date of Decision :** 16-04-2013

**Acts Referred:**

**Citation :** 2013 0 NCDRC 281 : 2013 2 CPJ 442

**Hon'ble Judges :** VINAY KUMAR J.

**Advocate :** Vinay K.Sharma , MILIND KUMAR

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**Judgement**

1. THE matter involved in the present proceedings concerns the claim of a retired police official for reimbursement of medical expenses incurred by him. As the claim was not admitted by the respondent, complaint no.367 of 2010 before District Consumer Forum, Tonk, Rajasthan was filed. The District Forum dismissed the complaint. But the appeal of the Complainant was allowed by the Rajasthan State Consumer Disputes Redressal Commission in FA No.747 of 2011.

2. THE revision petition, challenging the order of the State Commission, has been filed on behalf of the District Treasury Officer, Tonk with delay of 111 days. Perusal of the application for condonation of this delay shows that a copy of the impugned order, pronounced on 21.8.2012, was received by the counsel for the petitioner on 24.8.2012, i.e. within three days. Thereafter, the revision petitioner has taken nearly six and half months to file the petition before this Commission. In explanation of this long delay, the application for condonation states as follows:- "3. The learned Govt. Advocate sent all the relevant documents and certified copy of the impugned judgment to the Law Department regarding opinion for filing Revision Petition before the Hon "ble National Commission. 4. The Law Department processed the file and sent vakalatnama and instructions to file Revision Petition before the Hon "ble National Commission. 5. Thereafter the Officer-In-Charge was appointed and contacted the office of the counsel in the Third week of February 2013. The Revision Petition was prepared and sent to the officer in charge at Tonk, Rajasthan. 6. That after receipt of the affidavit some time was taken in the translation of the relevant Annexures and after making the

Revision Petition complete in all respects the same is being filed without any further delay. "

It is evident from above that no attempt has been made to explain, with any specific details, as to how much time was taken at individual stages of consideration of the matter. Thus, there is no indication of the time taken by the Government Advocate in sending the records to the department, having received the certified copy of the impugned order within three days. Admittedly, after internal departmental decision to file the revision petition, the counsel was contacted sometime in February, 2013, which would make it an unexplained period of six months, from the date of the impugned order.

3. MR . Milind Kumar, learned counsel for the revision petitioner was given ample time and opportunity to explain the delay. However, he admitted that he was not in a position to add anything further to what had been stated in the application for condonation.

4. CONSUMER Protection Act, 1986, as declared in the STATEMENT OF OBJECTS AND REASONS of the enactment is a piece of legislation "to provide speedy and simple redressal to the consumer disputes. " Therefore, the question of limitation /delay, in matters arising under this Act, acquires a special significance. The law, in this behalf, has since been fully enunciated in the following decisions of Hon "ble Supreme Court of India:- In Ram Lal and Others V. Rewa Coalfields Ltd., AIR 1962 Supreme Court 361, it has been observed that - "It is, however, necessary to emphasize that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a discretionary jurisdiction vested in the Court by Section 5. If "sufficient cause " is not proved nothing further has to be done; the application for condonation has to be dismissed on that ground alone. If "sufficient cause " is shown then the Court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bonafides may fall for consideration; but the scope of the inquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the Court may regard as relevant. "

5. AGAIN , in BalwantSingh Vs. Jagdish Singh and Ors., (Civil Appeal no.1166 of 2006), decided by the Apex Court on 08.07.2010 it was held: "The party should show that besides acting bona fide, it had taken all possible steps within its power and control and had approached the Court without any unnecessary delay. The test is whether or not a cause is sufficient to see whether it could have been avoided by the party by the exercise of due care and attention. "

6. IN AnshulAggarwal V. New Okhla Industrial Development Authority, IV (2011) CPJ 63 (SC), it has been held that:- "It is also apposite to observe that while deciding an application filed in such cases for condonation of delay, the Court has

to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986 for filing appeals and revision in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if this Court was to entertain highly belated petitions filed against the orders of the Consumer Foras. "

Considering the law as laid down above, in the background of complete failure of the petitioner to offer any reasonable explanation of this inordinate delay, it is felt that the petition is liable to be dismissed on the ground of delay alone.

7. COMING to the facts, it is necessary to keep the following dates before us in context of the medical treatment undergone by the respondent/Complainant during the period 7th to 26th September, 2009. Admittedly, payment towards renewal of the Pensioner 's Medical Diary was made on 13.11.2009 i.e. subsequent to the period of medical treatment. The District Treasury Officer effected renewal for the remainder of the year i.e. from 13.11.2009 to 31.03.2010. The case of the Complainant was that having paid the renewal fee with the penalty, the diary should have been renewed from 1.4.2009 and not from 13.11.2009.

8. THE view taken by the District Forum was that:- "As per Rule-6(1) (B) there is clear provision that any reimbursement can be done only after the renewal of the Medical Diary. Prima facie the Complainant got his Medical Diary renewed on 13.11.2009. Hence, prior to which reimbursement of the medical bills cannot be obtained. " On the other hand State Commission has held that:- "The learned counsel for the respondent could not satisfy us as to how Rs.500/- was charged instead of Rs.400/- for renewal of the medical diary however, the same was also renewed only for four months. The appellant retired from service from a non-gazetted post and was staying in his village after retirement. In such a serious disease of heart, the patient or his attendants are not supposed to take all pre-cautions for getting the necessary formalities completed in regard to medical diary in time. Their first anxiety is to save the life of the patient. The person who had served the State Government for a very long time and had also been contributing to the medical fund, his claim should not have been rejected on such a casual cursory manner. "

In my view, the decision of the State Commission reflects correct appreciation of the facts and the evidence in the matter. I therefore, do not find any merit in the revision petition filed against the order of the State Commission. Therefore, revision petition No.976 of 2013 is dismissed in limine on grounds of limitation as well as merit. No order as to costs.