

(2001) 06 NCDRC CK 0053

In the National Consumer Disputes Redressal Commission

UNION OF INDIA And THREE

APPELLANT

Vs

HAJI DAL And OIL MILL

RESPONDENT

Date of Decision : 11-06-2001

Acts Referred:

Citation : 2001 3 CPJ 285

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna , Rachna J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against the judgment and order dated 8.9.1992 passed by District Forum, Bahraich in Complaint Case No. 1112/1992.

2. THE summary of case in brief that, the complainant Ghulam Ahmed purchased on behalf of M/s. Haji Dal & Oil Mill, N.S.Cs. of Vth Issue of Rs. 1,000/- (one thousand) for 7 (seven) years in favour of R.F.C. Faizabad from the Post Office Payagpur on 15.2.1977. On their maturity, the National Saving Certificates were presented for encashment but the post office concerned refused to do so on the ground that the National Saving Certificates cannot be issued in the name of the firm under the Rule 4 of the NSCs Vth Issue Rules, 1973. Complainant stated in his complaint before the District Forum, Bahraich that it was the negligence of the postal officers or officials who issued the NSCs in the name of complainant-M/s. Haji Dal & Oil Mill which was a Firm. Complainant was to receive a sum of Rs. 1,980/- as the maturity amount of the N.S.Cs., but since 14 years have elapsed hence the complainant demanded a sum of Rs. 2,960/-. The complainant also demanded interest @ 18% per annum and punishment for those who were responsible for this negligence.

The opposite parties have stated in their written version before District Forum, Bahraich, that the complainant had purchased N.S.Cs. in the name of a Firm which is against the Rules, thus the complainant is not liable to receive any benefit from the aforesaid N.S.Cs. Such irregular holdings can not be paid according to National Saving Certificates Vth Issue Rules.

3. THE opposite party also stated that although no interest is liable to be paid on such irregular certificates yet by the approval of the Director General, Post and Telegraph, Govt. of India, New Delhi, payment can be made as per Rules mentioned in the IInd Issue. THE written version was also supported by other parties, namely the Superintendent, Post Office, Bahraich and Sub Post Master, Payagpur. The District Forum having considered the case of both the parties have come to the conclusion that there is deficiency in service on behalf of Postal Department and allowed the complaint and ordered the opposite party to pay the maturity amount of N.S.Cs. within 21 days. The opposite party was also directed to pay an additional amount of Rs. 1,000/- as compensation for mental torture.

4. AGGRIEVED against this order the appellant has came up in appeal and has challenged the correctness of the order passed by the learned District Forum, Bahraich. Notice was issued to the parties for 7.12.1995, 13.3.1999 and 21.11.2000 but they did not respond. These notices have not come back unserved and hence service is presumed. We have perused the file and evidence on record. The main contention of the appellant is that according to Rule 4 of the N.S.Cs. Vth Issue Rules, 1973; (a) Single Holder Type Certificates may be issued to an adult for self or on behalf of a minor or to a minor; (b) Joint "A" Type Certificates may be issued jointly to two adults payable to both holders jointly or to the survivor; and (c) Joint "B" Type Certificates may be issued jointly to two adults payable to either of holder or the survivor. If any certificates have been purchased in contravention of Rules they are void and no amount of interest due to N.S.Cs. shall be paid. We do not agree with this plea of the appellant. It was the duty of the post office not to have issued the certificates even if requested by the complainant. Moreover, the certificates have been if issued in the name of the firm but at the same time name of Sri Ghulam Ahmed also appears in them as firm's partner. It was the duty of the officials of the post office who issued the N.S.Cs. in the name of the complainant to point out that N.S.Cs. cannot be issued in the name of a firm and should have refused the application for N.S.Cs. in question. Therefore, the departmental officers who allowed the purchase and issued the N.S.Cs. in question, are also responsible for this deficiency in service on behalf of the Postal Department. Thus, it is established that the department is responsible for the negligence and committed deficiency in service while allowing the purchase and issuing the N.S.Cs. (Vth issue) in the name of the complainant-M/s. Haji Dal & Oil Mill, through its partner Sri Ghulam Ahmed Bakshipur, Bahraich.

5. IN the circumstances, complainant/respondent is entitled to receive the amount of the N.S.Cs. with full maturity value and thereafter the rate of interest will be at the rate of Saving Bank Account applicable from time to time till the date of payment. This view has been taken by this Commission in a number of cases. Thus, the District Consumer Forum erred in not considering the above aspect of the matter. The District Consumer Forum in its judgment and order has not taken into consideration the loss occurring to the complainant from the date of maturity of N.S.Cs. till the date of release of the payment. Thus, the District

Forum should have also awarded in addition to the maturity value of the N.S.Cs., the interest applicable in the Saving Bank Account from the date of maturity till the date of payment. With this modification the judgment and order of the Distt. Forum is liable to be confirmed and the appeal is liable to be dismissed. ORDER

6. THE appeal is dismissed and the judgment and order of the learned District Forum, Bahraich are confirmed with the modification that in addition to maturity value of Rs. 1,980/- of N.S.Cs. and after maturity till the date of payment interest as applicable on Saving Bank Account from time to time shall also be paid to the complainant. Let copy as per rules be made available to parties. Appeal dismissed.