
(2006) 05 NCDRC CK 0034

In the National Consumer Disputes Redressal Commission

Union of India

APPELLANT

Vs

LILABEN BABUBHAI PRJAPATI

RESPONDENT

Date of Decision : 29-05-2006

Acts Referred:

Citation : 2006 2 CPR 12 : 2006 3 CPJ 140

Hon'ble Judges : K.S.Gupta , Rajyalakshmi Rao J.

Final Decision : Revision Petition dismissed

Judgement

1. THIS revision petition is filed by the Superintendent of Post Offices and Post Master against the judgment and order dated 17.1.2005 passed by the Gujarat State Consumer Disputes Redressal Commission in Appeal in 255/2003.

2. BRIEF facts of the case are : The complainant, Mrs. Lilaben Babubhai Prajapati, resident of Palanpur, Gujarat opened a Recurring Deposit Account No. 3330664 on 29.1.2005 at Chadotar Post Office. Respondent No. 2, Jagdish Chandra Gajanandrav Vanikar, Post Master, issued the pass book to the complainant. The said entries are also available in ledger card of Palanpur HO. The case of the petitioners is that after November 1995 respondent No. 1/ complainant did not make any deposit i.e., she has only deposited eleven instalments each of Rs. 300 in her account. The complainant's case is that she deposited 60 instalments and the total amount deposited was Rs. 18,000. When complainant went to the Postmaster on maturity of the account, the Postmaster on duty informed that "The amount was defrauded and investigation is in progress." Thereafter, only a receipt stating deposit of Rs. 3,300 in the account of complainant/respondent No. 1 was sent by the Postal Authorities. The complainant's case is that she had handed over the pass book to respondent No. 2 for depositing the monthly payments and finally approached him for withdrawing the amount and on account of faith, complainant did not insist for a receipt. As the complainant has deposited all the instalments he filed a complaint against the respondents. Learned Counsel for the petitioners argued that there is no evidence on record which shows that respondent No. 2 has misappropriated

the money of the complainant/respondent No. 1 and that liability cannot be attributed upon the petitioners. The petitioner admitted that respondent No. 2 has misappropriated certain amounts from some other accounts.

District Forum allowed the complaint partly and directed the petitioners to pay Rs. 18,000 with interest admissible from the date of complaint upto the date of actual payment along with cost of Rs. 500.

3. LEARNED Counsel for the petitioner argued that there is no evidence on record to suggest that the respondent No. 2 had misappropriated the money of the complainant. Complainant has filed the order of the State Commission in a similar group matter wherein State Commission held that postal department had collected these amounts and in course of their duty they were to make payments of interest from time to time and by making necessary entries thereof in respective pass books. They further held that respondent No. 2 committed fraud not only with the complainant and many other depositors but also with the employer, i.e., postal department/revision petitioner by misusing the postal stamp and seal and also records such as receipt forms and pass books. We have no reason to disbelieve the complainant when she stated that she handed over the pass book in good faith to the respondent No. 2 who was an employee of Postal Authority who promised to pay after it is duly checked by the Head Office in a month. When an official of Postal Authority behaves in a deceitful manner, it is not possible for a simple consumer to expect that they have been cheated. In complete faith, the consumer handed over the pass book without any receipt from respondent No. 2. The conduct of respondent No. 2 is already known and admitted by the Revision Petitioners. There is no reason for them to distinguish this particular case on the ground of no evidence of pass book. We do not agree with this contention of the revision petitioner.

4. WE do not find any substance in the petition. Since District Forum and State Commission have come to the conclusion that due to the fraud committed by respondent No. 2 the complainant/respondent could not utilise the money. Fraud committed by respondent No. 2 has to be borne by the petitioners as he was in their employment at the relevant time. It is for the petitioners to decide how to recover the amount and they cannot disown their responsibility and commitment towards the complainant. There is nothing on record which has not been looked into by the Fora below and which requires our interference. Hence, revision petition is dismissed. Revision Petition dismissed.