
(2002) 07 P&H CK 0090
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 11296 of 2000

Union of India (UOI)

APPELLANT

Vs

State Consumer Disputes Commission and Others

RESPONDENT

Date of Decision : 25-07-2002

Acts Referred:

Consumer Protection Act, 1986 — Section 1(4), 2

Citation : (2003) 133 PLR 77 : (2002) 4 RCR(Civil) 298

Hon'ble Judges : Viney Mittal, J

Bench : Single Bench

Advocate : R.S. Rai, for the Appellant; Rajbir Sherawat, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

Viney Mittal, J.—The present writ petition has been filed by the Union of India through the Chief Controller of Pension, Central Pension Accounting Office. Ministry of Finance against the respondents namely State Consumer Disputes Redressal Commission, Haryana, District Consumer Disputes Redressal Forum, Gurgaon and respondent No. 3-B.S. Yadav.

2. A prayer has been made in the petition for quashing the order dated 14.10.1999 of the District Consumer Disputes Redressal Forum, Gurgaon and order dated 24.4.2000 of the State Consumer Disputes Redressal Commission, Haryana. The aforesaid orders have been appended as Annexures P-1 and P-2 to the petition.

3. Some facts may be noted as follows:-

Respondent No.3-B.S.Yadav filed a complaint u/s 12 of the Consumer Protection Act, 1986 (hereinafter referred as "the Act") alleging deficiency of service on the part of the respondent therein- Central Pension Accounting Office. The basic averments made in the aforesaid complaint were that the aforesaid respondents-office while revising pension on the basis of the Fifth Pay Commission of the

complainant, sent the authorisation letter to the Manager, State Bank of India, Tis Hazari, Delhi instead of State Bank of India, Mehrauli Road, Gurgaon from where he was drawing pension, resulting in the delay of disbursement of revised pension to him. It was further stated in the complaint that on the receipt of copy of the said authorisation containing mistake in the name of the disbursing bank the same had to be got corrected and while visiting the office of the Controller of Accounts, officials they misbehaved and insulted him. On that basis he had claimed before the District Consumer Disputes Redressal Forum (hereinafter referred to be as "the Forum"), respondent No.2, for payment of arrears with interest @ 24% p.a. and costs of litigation. This complaint was contested by the Central Pension Accounting Office on various grounds including the maintainability of the complaint before the Forum. On merits also, it was stated that there was no delay on the part of the officers/authorities to make the payment. In fact it was stated that the aforesaid error had occurred because of the mistaken belief and as soon as the error was detected, the same was rectified.

4. Vide order dated 14.10.1999, the Forum-respondent No.2 found that pensionary benefits had already been made and the mistake had been corrected by the pensionary authorities. However, it was found that because of the mistake, harassment has been caused to the complainant and therefore, a sum of Rs.1,000/- had been directed to be paid as compensation to the complainant. The aforesaid order had been attached as Annexure P-1 to the petition. Aggrieved against the aforesaid order, the appeal was filed before State Consumer Disputes Redressal Commission, Haryana, Chandigarh (hereinafter referred to as the State Commission). Vide order dated 26.4.2000, the appeal was dismissed and it was held that the amount is too meager. The aforesaid order had been attached as Annexure P-2 to this petition. Aggrieved with that the present petition is filed.

5. The main thrust of the submissions raised by Sh. R.S. Rai, the learned Senior Central Government Standing Counsel is that in fact the provisions of the Consumer Protection Act, 1982 (hereinafter called the Act) under which the District Forum as well as the State Commission were constituted, were not attracted at all to the complaint filed by respondent No.3. It was specifically argued by Sh. R.S. Rai that in fact the relationship between respondent No. 3-B.S. Yadav and Union of India was not that of consumer and service provider and there was no question of providing of any service as is known under the provisions of the aforesaid Act and therefore, the question of the service being deficient did not arise at all.

6. On the other hand, Sh. R.A. Yadav, learned counsel appearing for respondent No.3 has submitted that because there was a mistake in despatching the necessary papers of respondent No.3. and since he had been harassed and had to visit the office of the Assistant Controller of Accounts personally, the amount of compensation awarded by District Forum as well as the State Commission is

justified and proper. He has also prayed that in the circumstances no interference is required by this Court.

I have gone through the orders Annexure P-1 and P-2 and I find merit in the submission of Sh. R.S. Rai, learned counsel for the petitioner.

7. The case made out by the respondent No. 3 in the complaint as well as in the written statement filed to the present writ petition shows that he merely stated harassment, irresponsible "attitude and behaviour of certain officials of the Central Pension Accounting Office. No where any averment has been made as to how was the complainant a consumer. A plea has also been raised of the Forum under the Act being a speedy and cheapest remedy.

8. At this stage section 2(d) of the Act which defines consumer may be noticed as under:-

"(d)" consumer" means any person who,-

(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes user of such goods other than the person who buys such good for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or

(ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person."

From a bare perusal of the aforesaid provision it is abundantly clear that the respondent No.3 by stretch of any imagination cannot bring himself within the definition of consumer and there are no averments made by him in this regard and therefore, the complaint u/s 12 filed by him before the District Forum respondent No.2 was not legally maintainable. In fact there is no relationship of a consumer and a service provider between respondent No.3 and the petitioner Union of India. Since the said relationship did not exist between the parties, so therefore, there was no service having ever been provided by the petitioner and as such any question of deficiency of service did not arise. It is admitted case of the parties that all the pensionary benefits have since been paid to respondent No.3. The petitioner is only aggrieved against the award of compensation vide orders Annexure P-1 and P-2. The apprehension of Sh. R.S. Rai is that in case these orders are not quashed, in future also such persons may approach the District Forum or the State Commission, which do not have the jurisdiction in the matter.

9. I feel that the apprehensions of Sh. Rai are well placed. It may not be out of place to notice that the District Consumer Disputes Redressal Forum respondent No.2 and State Consumer Disputes Redressal Commission-respondent No. are both creations of a statute and therefore, derive their jurisdiction and powers from the various provisions of the said statute and are courts of limited jurisdiction. Such statutory Forums do not enjoy any plenary or inherent powers as are enjoyed, by a Civil Court. Unless and until it is shown that the complaint filed by a consumer falls within the four corners of the Act neither the Forum nor the State Commission would have any jurisdiction in the matter to deal with such a complaint. In the present case, I find that the entertainment of the complaint by the District Forum-respondent No.2 and passing of the orders Annexure P-1 by him and subsequent dismissal of the Appeal Annexure P-2 by State Commission-respondent No.1 are totally without jurisdiction and therefore, cannot be legally sustained. Therefore, I quash orders Annexure P-1 and P-2, while holding that the District Forum respondent No.2 and the State Commission respondent No. 1 did not have any jurisdiction in the matter to entertain the complaint as made put by respondent No.3.

This petition is accordingly allowed. No order as to costs.