
(2003) 08 NCDRC CK 0083

In the National Consumer Disputes Redressal Commission

UNITED BANK OF INDIA

APPELLANT

Vs

PARAMANANDA PRASAD

RESPONDENT

Date of Decision : 22-08-2003

Acts Referred:

Citation : 2003 3 CPR 30 : 2004 2 CPC 487 : 2004 3 CLT 38 : 2004 3 CPJ 30

Hon'ble Judges : S.C.Datta , S.Majumder , D.Karformas J.

Final Decision : Appeal dismissed

Judgement

1. -THIS is an appeal against the order of the Forum at Dakshin Dinajpur at Balurghat. The Forum directed the United Bank of India to pay a sum of Rs. 2,00,000/- representing prize money by way of compensation. The Forum also directed payment of simple interest @ 9% per annum on such amount from 29.10.1998 till realization. Being aggrieved thereby the Bank has appealed.

2. THE case of the petitioner in short is that he purchased one West Bengal State Lottery (Dewali Bumper) ticket from a local Agent at Gangarampur. THE date of draw was scheduled on 21.10.1998. THE said ticket won third prize worth Rs. 2,00,000.00. THE petitioner is the holder of a savings Bank account with the appellant Bank at its Gangarampur Branch. He deposited the said prize winning lottery ticket in original with the said Bank on 29.10.1998 for collection of the amount and crediting the amount in his account. But in spite of several requests the Bank has not credited the prize money to his account. So he has brought this case against the Bank as well as the Director, State Lotteries, West Bengal for realization of this amount alleging deficiency in service. The opposite parties have filed separate written statements. Opposite Party No. 1 viz. the Bank admits that the petitioner deposited the lottery ticket with them for crediting the amount of prize money to his savings account and he submitted a letter of authority to the Bank to collect the money from the office of the Director, State Lottery, Govt. of West Bengal in Calcutta. The Bank deputed their Deputy Manager to Calcutta together with the said ticket and letter of authority. It has been stated that the Deputy Manager Sri Himanshu Purkait lost the said ticket at

the Railway Platform. In fact he states that his bag containing the lottery ticket and other papers was stolen by thief. Mr. Purkait lodged a GD entry at Gangarampur P.S. Thereafter the Bank entered into several correspondences with the Director of State Lottery for the release of prize money but to no effect.

The Director, State Lottery states in their written statement that as per their rules the prize money is to be paid to the prize winner only on surrendering the prize winning ticket at their office in Calcutta. It has also been stated that the prize winner is required to submit pre-receipted claim in the prescribed form along with the prize winning ticket signed on the reverse side through any Nationalized Bank within the statutory period. As the formalities were not complied with the prize money could not be paid.

3. IT is not disputed that the petitioner won the third prize worth Rs. 2,00,000/- and he deposited the same with the Bank at Gangarampur Branch for crediting the same to his savings Bank account No. 10053 with the letter of authority to collect the money on his behalf. According to the Bank the said ticket along with the letter of authority were sent to the Director of State Lottery, West Bengal through Mr. Purkait for collection but it was stolen at Sealdaha Railway Station. An FIR was lodged with Sealdaha GRPS. So according to the Bank the said lottery ticket was lost in transit. So there is no escape from the conclusion that the Bank is guilty of deficiency in service. They failed to discharge their obligation to collect the prize money on behalf of the petitioner and to credit the prize money to his account. The Branch Manager is the Agent of the Bank. So the Bank cannot avoid any liability in the matter. In the memo of appeal it has been stated that they have been authorized by the Govt. of West Bengal to undertake the task of collecting prize money of lottery tickets received from public. In effect they act as Agent of the West Bengal Government. It has been also stated that they do not act as Agent of the petitioner. It may be remembered that the petitioner holds a savings Bank account with the Bank. He has admittedly deposited the prize winning ticket with the Bank for collection and credit of the prize money to his account. It cannot be urged that the service to be rendered by the Bank is without any consideration. The learned Counsel for the respondents submits that the Bank realizes collection charges for realizing the amount from the Director of State Lottery. So the petitioner has availed of the service of the Bank in the matter of collecting the prize money on his behalf for consideration. Consequently we can safely conclude that the petitioner comes within the definition of "Consumer" as defined in the Consumer Protection Act.

4. THE learned Counsel for the appellant submits that lottery ticket holders are not covered by the definition of consumer under COPRA. According to him the beneficent consumer jurisdiction cannot be extended to such wagering transaction. In support of his submission he has referred to a case reported in III (1993) CPJ 1702=CPR 1-1994, page - 213 in the case of Jagdish Chand of Kurukshetra v. Director, Sikim State Lottery and Others. THE said decision was rendered by the State Consumer Disputes Redressal Commission, Haryana,

Chandigarh. On perusal of the said judgment it appears that the said decision does not apply to the facts of the present case. Here in this case the petitioner alleges deficiency in service on the part of the Bank in the matter of failure to collect prize money of the State Lottery. THE petitioner has of course made the Director of State Lottery, West Bengal, a party to this proceeding but the Forum did not order any award against the said authority on the ground that the formalities as are required to be complied with by a claimant as per their rules have not been complied with by the petitioner. In this case the prayer is against the Bank for serious lapses on their part in performing the contractual obligation of collecting the prize money. So, it cannot be said that the judgment of the Forum was erroneous. Consequently we find no merit in the appeal which is hereby dismissed. Appeal dismissed.