

(2003) 11 NCDRC CK 0046

In the National Consumer Disputes Redressal Commission

University of Rajasthan

APPELLANT

Vs

Ajit Kumar

RESPONDENT

Date of Decision : 17-11-2003

Acts Referred:

Citation : 2004 2 CPC 249 : 2004 3 CPJ 142

Hon'ble Judges : M.A.A.Khan , Sushma Tanwar J.

Final Decision : Appeal allowed

Judgement

1. HEARD. The appeal is barred by limitation by 140 days. The contention of the appellant is that he was never served with the notice of the complaint and that it came to know to such order only on the proceedings under Section 27 of the C.P. Act, 1986.

2. IN order to verify the truthfulness in the explanation of the appellant we called for the original record. The original record no doubt asserts issue of notice of complaint to the appellant through registered post but there is no proof of the fact that the registered letter was ever sent to the appellant. IN support of its explanation the appellant has filed the affidavit of Ashok Kumar, INcharge (Examination) of appellant University. There is no counter affidavit to it. Delay has been satisfactorily explained. The same is hereby condoned. M.S. College of Pharmacy at Bharatpur is an institution imparting knowledge in pharmacy to the students ambitious of obtaining such knowledge for their carrier. Such college is affiliated to the University of Rajasthan at Jaipur for the said purposes. For the academic session 1993-94 the respondent complainant Sh. Ajeet Kumar was admitted to the second year of D. Pharma course by the M.S. College of Pharmacy, Bharatpur respondent No. 2. A fee of Rs. 16,000/- was charged from him. Due to having sustained an injury the respondent complainant could not appear at the examination held on 17.5.1995. He, therefore, required the college as well as the University to refund his fees of Rs. 16,000/-. Since his fees were not refunded to him, he filed a complaint against the appellant and respondent No. 2 before the District Forum. The Forum decreed his claim as against the

appellant and respondent No. 2, the college. Aggrieved against such order of the Forum the appellant has preferred this appeal.

It was urged by the learned Counsel for the appellant that M.S. College of Pharmacy, Bharatpur respondent No. 2 was simply affiliated with the appellant University for the purpose of holding examination in accordance with the syllabus prescribed by the University. No part of fees received by M.S. College of pharmacy, Bharatpur from the student is received by the University and, therefore, the University cannot be held liable to refund any part of such fees on the ground of having rendered deficient services to the complainant respondent. After having gone through the impugned order as also other material on the record we are of the opinion that since the fees were received from respondent No. 2 by respondent No. 1 and no part thereof is proved to have ever been remitted by respondent No. 2 to the appellant, the appellant cannot be said to have rendered deficient services to respondent No. 1. The respondent No. 2 namely the M.S. College of Pharmacy, Bharatpur does not appear to have challenged the impugned order.

3. IN view of the above, the impugned order, in so far as it relates against the present appellant, is set aside and cancelled. The appeal is allowed with cost on parties. Appeal allowed.