

(2001) 03 NCDRC CK 0037

In the National Consumer Disputes Redressal Commission

U.P.GOVERNMENT EMPLOYEES WELFARE CORPORATION

APPELLANT

Vs

K.K.RAIZADA

RESPONDENT

Date of Decision : 30-03-2001

Acts Referred:

Citation : 2001 3 CPJ 562

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

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against the judgment and order dated 17.12.1991 passed by District Consumer Forum, Moradabad in Complaint Case No. 192/91.

2. THE facts of the case stated in brief are that the complainant deposited the amount with the opposite party No. 2, appellant for taking a vehicle. When the vehicle was not delivered within a reasonable time, the complainant has filed this complaint. The learned District Forum, after considering the case of the parties, directed that the deposited amount should be returned within 30 days along with Rs. 200/- as cost.

Aggrieved against this order, the appellant has come in appeal and has challenged the correctness of the order passed by learned District Consumer Forum.

3. NONE was present on the date fixed even though the parties have been informed on Service Postage Stamp. The application for condonation of delay has been moved in this case. It is alleged that the District Consumer Forum on 17.12.1991 passed the order without taking consideration into appellant's plea. The Canteen Manager, U.P. State Employees Welfare Corporation, Sadar Tehsil, Depot, Moradabad informed the Lucknow Head quarter about this order. The Head quarter replied to the Manager regarding the delivery of Motor Cycle and intimated that the orders have already been issued to the concerned dealer M/s. Jawahar Motors, Rampur Road, Moradabad, opposite party No. 2. The complainant instead of taking the delivery of Motor Cycle filed an application

under Section 27 of the Consumer Protection Act and ex-parte order was passed against the appellant. Thereafter, when the matter came to the knowledge of the higher Authorities, the Authorities contacted Standing Counsel for taking opinion and thereafter this appeal has been filed on 15.10.1992.

4. A perusal of the judgment will go to show that the copy of the order was issued on 17.12.1991. The appeal should have been filed within one month from this date, while the appeal has been filed on 15.10.1992 after the lapse of about 10 months. The reason given in para 3 of application for condonation of delay is that the Canteen Manager informed the higher Authorities at Lucknow of this order. It has not been mentioned when the information was sent to the higher Authorities and when this information was received at Lucknow. It has also not been mentioned as to when the orders for handing over the Motor Cycle to the complainant was passed. It is merely mentioned that when the appellant came to know about the order dated 17.3.1992 he applied for certified copy of the order which was received on 23.6.1992. It is written that on 23.6.1992 the Standing Counsel was contacted but it is not mentioned as to how the period of four months was taken in taking advise and filing the appeal. This period remains unexplained, therefore, we find that the appellant has not specifically explained the delay in filing the appeal. Thus we find that the application for condonation of delay is liable to be rejected. Moreover, the facts of the case are also clear which shows that the complainant deposited the amount for purchase of Motor Cycle but the opposite party did not deliver the Motor Cycle within a reasonable time. When the complainant did not get the Motor Cycle, he filed the present claim petition. The learned District Forum has rightly come to the conclusion that the Motor Cycle was not delivered in time, hence it decreed the claim of the complainant. We do not find that there is any flaw in the judgment of the learned District Forum. The appeal is liable to be dismissed. ORDER The appeal is dismissed. The judgment and order of the learned District Forum are confirmed. There will be no order as to cost. Let the copy of this order be made available to the parties as per rules. Appeal dismissed.