
(2015) 04 NCDRC CK 0048

In the National Consumer Disputes Redressal Commission

Uttar Pradesh Khadi Evam Village Industries

APPELLANT

Vs

Shirsh Asthana

RESPONDENT

Date of Decision : 06-04-2015

Acts Referred:

Citation : 2015 2 CPR 603

Hon'ble Judges : D.K.JAIN , VINAY KUMAR , M.SHREESHA J.

Advocate : R.D.UPADHYAY , J.P.TRIPATHI

Judgement

1. THIS Revision Petition, under Section 21(b) of the Consumer Protection Act, 1986 (for short "the Act"), has been filed by the Uttar Pradesh Khadi Evam Village Industries Board, Opposite Parties No. 1 and 2 in the Complaint, against order dated 27.01.2014 passed by the Uttar Pradesh State Consumer Disputes Redressal Commission at Lucknow (for short "the State Commission") in Appeal No. 310 of 1999. By the impugned order, the State Commission has dismissed the said Appeal on the ground of limitation. The said Appeal had been preferred by the Petitioners herein, questioning the correctness and legality of order dated 24.02.1998 passed by the District Consumer Disputes Redressal Forum at Jaunpur (for short "the District Forum") in Complaint Case No. 220 of 1995. The District Forum, while partly allowing the Complaint, had directed the Petitioners to pay the balance amount of ₹50,000/- towards sanctioned working capital and the management grant of ₹12,000/- as also cost of the material supplied by the Complainants, Respondents herein. The Petitioners were also directed to pay ₹50,000/- as compensation towards loss suffered by the Respondents and another ₹50,000/- as compensation towards mental and physical harassment. Besides, other Opposite Parties, No. 3 to 5, were inter alia directed not to attach or auction the property of the Respondents and also not to recover the disputed bills of electricity for at least six months.

2. BEING aggrieved, the Petitioners preferred the afore -noted Appeal before the State Commission, however, with a delay of about ten months. Not being satisfied with the explanation furnished by the Petitioners for the said delay, as

noted above, the State Commission has dismissed the Appeal as barred by limitation. Hence, the present Revision Petition.

3. THE first question for consideration is whether the decision of the State Commission, in not condoning delay of about 10 months in filing the Appeal, suffers from any illegality. The explanation furnished for the said delay, as indicated in the impugned order, was that the certified copy of order passed by the District Forum on 24.02.1998 had been received by the Petitioner on 11.03.1998. Thereafter, the case file was misplaced from the chamber of their Advocate and subsequently on its retrieval, the Appeal had been filed. It is pointed out by the Office that this Revision Petition is also barred by limitation, as there is a delay of 101 days in filing the same. An application praying for condonation of the said delay has been filed alongwith the Revision Petition. In paragraphs 2 and 3 of the application, the explanation furnished is as under:

"2. That since the impugned order passed by the State Commission was passed in the absence of counsel for the petitioners, the petitioners had no knowledge about the passing of order and when certified copy of order was received by the applicant, necessary documents were collected and the matter was sent to the standing counsel of the applicant Board at Lucknow who was requested to hand over the same to the counsel of the Board appearing before this Hon"ble Commission.

3. That after the papers were handed over to the counsel at Delhi, arrangements were made to get the necessary documents which also took time whereas no translator was easily available. Thereafter the present revision was filed."

4. WE have heard learned counsel for the Petitioners on the question of delay.

5. IN our opinion, the explanation furnished by the Petitioner for the delay in filing the Appeal as also the Revision Petition, to say the least, is manifestation of typical casual and lethargic bureaucratic attitude. The only explanation for the delay of about 10 months in filing the Appeal before the State Commission, which the Petitioners had sought to explain on the plea that the case file was missing from the chamber of their Advocate, seems an after -thought. However, in any case, if the state of affairs was actually so, the Petitioners could have filed an affidavit in support of the same, giving the date -wise developments in the matter, which was not so in this case. In our view, while prosecuting their remedy before the State Commission the Petitioners were lax and since they had failed to make out a sufficient cause for condonation of the said delay, the State Commission, for the reasons mentioned in the impugned order, was justified in dismissing the said Appeal on the ground of limitation. Insofar as the delay in filing the Revision Petition is concerned, it may be true that the State Commission had passed the impugned order in the absence of Counsel for the Petitioners but that does not mean that the Petitioners had come to know about the same only on 23.07.2014, i.e. the date when the certified copy of the impugned order, placed on record, had been prepared and issued to the

Petitioners. From a perusal of the same, we find that the "free certified copy" of the impugned order had been issued to the Petitioners on 29.04.2014 and accordingly going by the same, the delay in filing the present Revision Petition would be more than six months and not 101 days, as computed by the Office. However, in the application the Petitioners have not indicated as to how and when they learnt about the impugned order. For the sake of argument, even if it is assumed that the Petitioners had actually received the certified copy of the impugned order on 23.07.2014, yet, going by Regulation -14 of the Consumer Protection Regulations, 2005, they were required to file the Revision Petition within a period 90 days from the said date. However, the Petitioners have filed the present Revision Petition on 30.01.2015, i.e. after more than six months. The said delay has been sought to be explained by the Petitioners on the specious plea that it occurred because after receiving the certified copy of the impugned order, the same had been forwarded to their Board office at Lucknow for assigning the case to an Advocate and some time lapsed in collecting necessary documents, etc. In the absence of date -wise details relating to processing of the matter by the Petitioners at their end, this explanation is completely vague and misconceived. This Revision Petition, at this belated stage, is yet another attempt by the Petitioners to somehow prolong the matter and unnecessarily harass the Respondents, who are still not able to enjoy the fruits of the order passed by the lower Fora in their favour. In our view, the condonation of delay at this stage would be further harassment to the Respondents. We are not at all convinced with the explanation furnished by the Petitioners at both the Fora and are of the view that they have been thoroughly negligent in prosecuting their cause.

6. BEARING in mind the afore -stated facts and the observations of the Hon'ble Supreme Court in Anshul Aggarwal vs. New Okhla Industrial Development Authority, 2011 14 SCC 578 to the effect that while deciding an application for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Act for filing appeals and revisions in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if highly belated petitions filed against the orders of the Consumer Foras are entertained, we are not inclined to condone an inordinate delay of over six months in filing of the present Revision Petition.

7. ON merits also, this Revision Petition deserves to be dismissed. The Respondents had applied for financial assistance of ₹1,50,000/- as working capital with the Petitioners, in response to which the Petitioners had sanctioned ₹1,00,000/- and, accordingly, released a sum of ₹50,000/- to the Respondents. Despite repeated requests, the remaining amount was not released by the Petitioners, due to which the Respondents could not run their business and ultimately suffered losses and consequent closure of the industrial unit. On appreciation of the evidence adduced before it, the District Forum had come to the conclusion that as per the directions of the Petitioners the Respondents had supplied the material worth ₹1,89,008/- to different departments and for the cost of the material a sum of ₹50,000/-, which was supposed to be paid in cash

to the Respondents, was not paid and adjusted in the loan account, as a result of which the production of the industry had suffered a lot and consequently it was closed. The District Forum, therefore, while holding that there was deficiency in service on the part of the Petitioners, issued the afore -noted directions. In our view, the District Forum, for the reasons recorded in its order, had rightly arrived at the aforesaid finding. There is no illegality or material irregularity in the order passed by the State Commission.

8. CONSEQUENTLY , the Revision Petition is dismissed on the ground of inordinate delay as well as on merits.