(1998) 04 NCDRC CK 0063

In the National Consumer Disputes Redressal Commission

VIPIN BHARDWAJ APPELLANT

Vs

CITI BANK RESPONDENT

Date of Decision : 07-04-1998

Acts Referred:

Citation : 1999 1 CPC 547 : 1999 1 CPJ 522

Hon'ble Judges : A.P.Chowdhri , Desh Bandhu J.

Final Decision : Appeal disposed of

Judgement

1. THIS appeal is directed against the judgment dated 9.5.1995 of the District Forum-II. The complainant himself is the appellant though the decision of the District Forum was ex parte.

2. THE facts are that the appellant raised a Citi Mobile loan of Rs. 70,000/- from the respondent and for repayment of the loan he issued 36 post-dated monthly cheques of Rs. 2,613/- besides three cheques to cover the insurance premium of the car purchased by him. One more cheque was kept in reserve. THE respondent vide letters dated 10.3.1992 and 25.1.1993 demanded Rs. 185/- and Rs. 217/- on account of post budget announcements towards interest tax on loans, which were paid by the appellant. However, his request to send a copy of such directions by Reserve Bank of India were not complied with. THE respondent vide letter dated 9.9.1993 informed the appellant that 35 cheques had been encashed and that a sum of Rs. 7,595.36 was still outstanding in the loan account. In a letter dated 3.7.1992, the respondent informed the appellant about misplacement of a cheque of July, 1992 instalment, and then in a letter dated 23.8.1993 about the absence of credit entries of instalments of August, 1990 and July, 1992. THE respondent was alleged to have misplaced the cheques intentionally to blackmail the appellant because the copy of the statement sent by the respondent showed credit of 35 instalments. He also asked the respondent that they had also a spare blank cheque and it was not understood as to why they were not encashing that cheque. THErefore, he prayed to the Forum that the respondent be directed to issue immediately a No Objection

Certificate (NOC) and pay Rs. 75,000/- as compensation, being damages for professional loss, mental agony and harassment. The respondent did not appear before the Forum. On hearing the appellant, the District Forum passed the impugned order by which it directed the respondent to issue an NOC to him within 15 days. It also directed the appellant to pay Rs. 2,613/- as the balance amount in case the 36th cheque had not been encashed till then. Since the respondent had raised a frivolous and illegal demand of Rs. 7,684.96 it was held guilty of deficiency in service and unfair trade practice. The Forum directed that for all these reasons the appellant will be entitled to recover a compensation of Rs. 2,000/- which he was entitled to adjust from the amount of Rs. 2,613/-. It is against this order that this appeal has been filed. By this appeal the appellant desires to be paid a compensation of Rs. 75,000/- as prayed by him earlier, direction to issue an NOC and also the return of the blank cheque.

Arguments have been heard from both sides. It may be noted that during the pendency of this appeal the appellant handed over a draft of Rs. 613/- to respondent''s Counsel after adjusting Rs. 2,000/- awarded to him as compensation which settled the last instalment of Rs. 2,613/-. Then the NOC was handed over by learned Counsel for the respondent to the appellant on our direction and, therefore, to the extent the appeal has become infructuous.

3. THE appellant has asserted that the District Forum granted only a very nominal compensation of Rs. 2,000/- whereas, in fact, by non-supply of NOC by the respondent Bank he suffered a heavy business loss. He also suffered mental agony and harassment by being asked to pay an amount of more than 7,000/- illegally and further that the Bank officials maliciously and intentionally misplaced his cheques for the months of August, 1990 and July, 1992. In fact, there is difference of one instalment in the statement sent to him by the respondent. By allegedly misplacing his cheques, the respondent was guilty of negligence and deficiency in service, and by raising a frivolous demand of more than Rs. 7,000/-, the respondent was guilty of unfair trade practice. We find force in these submissions. By admittedly misplacing some of his cheques, the officials of respondent Bank are clearly shown to have handled the loan account of the appellant in a very negligent and casual manner. The respondent, therefore, is shown to be guilty of deficiency in service. Also no rules and regulations or agreement between the parties have been shown to us or even produced before the learned Forum which could prove that the respondent was entitled to recover about Rs. 7,500/- more from the appellant. So we are entitled to draw an adverse inference from this circumstance against the respondent. The respondent is thus guilty of adopting an unfair trade practice also.

4. NOW we are to see what reasonable compensation should be awarded to the appellant. The learned Forum has allowed only Rs. 2,000/-. The respondent did not make available to the appellant any copy of the directions of the RBI, though specifically demanded by the appellant. The respondent also misplaced cheques of the appellant and, in fact, wrongly wrote to appellant that two cheques had

been misplaced. The appellant has been pursuing this matter since April, 1994 to get the necessary reliefs. We are of the view that the compensation awarded is quite inadequate. The appellant has not shown in what manner he suffered a business loss of Rs. 50,000/-. But in the facts and circumstances, the appellant deserves to be awarded Rs. 10,000/- as compensation and we order accordingly. The balance amount of Rs. 8,000/- will be payable within two months from the date of receipt of this order. Appeal disposed of.