

(1995) 02 NCDRC CK 0002

In the National Consumer Disputes Redressal Commission

V.P.SANT

APPELLANT

Vs

CHAIRMAN, DELHI DEVELOPMENT AUTHORITY

RESPONDENT

Date of Decision : 14-02-1995

Acts Referred:

Citation : 1995 0 NCDRC 100 : 1995 1 CPR 837 : 1995 2 CLT 485 : 1995 2 CPJ 248 : 1999 0 ACJ 482

Hon'ble Judges : V.BALAKRISHNA ERADI , S.S.CHADHA , R.THAMARAJAKSHI J.

Advocate : J.C.JETELY

Judgement

1. THIS Revision Petition raises the question of enforcement of the rule relating to the filing of the certified copy of the order appealed against.

2. THE Complainant/Petitioner herein pre-ed on 22nd February, 1993 a memorandum of appeal to the State Commission, Delhi against the orders dated 20th November, 1992 and 2nd February, 1993 of the District Forum-II Delhi. Rule 8 of the Delhi Consumer Protection Rules, 1987 requires that each memorandum shall be accompanied by the certified copy of the order of the District Forum appealed against and such of the documents, as may be required to support grounds of objections mentioned in the memorandum. The Petitioner filed alongwith the memorandum, Photostat copies of the certified copies of the orders of the District Forum instead of the certified copies he appeal came up for hearing, the deficiency was pointed out and the Petitioner moved on 1st December, 1993 an application for leave to file the original certified copies and for condonation of delay. By the impugned order date 18th April, 1994 the State Commission, Delhi opined that there is not sufficient ground to condone the delay and dismissed the application consequently the appeal was dismissed as Barred by limitation. The Consumer Protection Act, 1986 as the preamble suggests is enacted to provide for better protection of the interests of consumers. It is a beneficial statute for redressal of the grievances of the categories of consumers defined in the Act. It is to provide protection and to give relief to persons who have suffered, loss or damage as a result of an unfair trade

practice or restrictive trade practice adopted by any trader or to persons who have purchased goods for consideration and which goods are found to suffer from one or more defects or persons who have hired service for consideration when the services provided are found to suffer from deficiency in any respect or persons who have been charged by the traders for the goods in excess of the price fixed by or under any law for the time being in force or when the persons are offered goods which are hazardous to life and safety when used etc. It was to protect the interest of a common consumer from such wrongs for which the remedy under the ordinary law for various reasons became illusory. The enactment is a silver lining which may in course of time succeed in checking the rot pointed out by the Supreme Court in Lucknow Development Authority v. M.K. Gupta, 1994 (1) SCC 243=1 (1994) CPJ 7 (SC).

3. THE proceedings under the Act are time bound and are not required to be shackled with the niceties and technicalities of the procedure. The rigid adherence to the technicalities of the procedure would defeat the scheme, scope and purpose of the Act. The Redressal Agencies are not Civil Courts which are bound by the Code of Civil Procedure. A new procedure is evolved by the Act to provide relief to a common man who is a consumer within the meaning of the Act, expeditiously and without going into the technicalities of procedure.

4. IN this case, the petitioner had obtained the certified copies of the orders under appeal and if he had filed the original certified copies instead of the Photostat copies, then the appeal would have been in time. The State Commission took the view that an appeal will be deemed to be presented for the purpose of limitation only when it is accompanied by the certified copy of the judgment appealed against on the strict interpretation of the said Rule 8. With the modern technology, the Photostat copy contains not only the judgment but all particulars of when the application for certified copy was filed or when the copy was received. If the memorandum of appeal was considered defective when originally presented with the photostat copy, then an opportunity could have been given to the petitioner to rectify the defect and refile the appeal with the original certified copy. When the defect was pointed out, the petitioner filed the original certified copies along with an application for condonation of delay. Rule 8(4) vests the jurisdiction in the State Commission to condone the delay in not preferring the appeal within time. The rules of procedure are intended to advance the interests of the consumers and should be so interpreted as to subserve the purpose and the scope of the Act. The reliefs could not be denied on a hypertechnical interpretation of the rules. The State Commission, in this case, has failed to exercise the jurisdiction vested in it resulting in miscarriage of justice. We, therefore, set aside the impugned order of the State Commission, allow the application for condonation of delay and remand the case for decision of the appeal on merits. There will be no order as to costs of these proceedings.