

Rama Devi and Others Vs. the Manager, Apsrtc Depot-ii Chittoor Town and District

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Court : Andhra Pradesh State Consumer Disputes Redressal Commission
SCDRC Hyderabad

Decided On : Nov-06-2013

Judge : The Honourable Mr. R. Lakshminarasimha Rao, Incharge President, the Honourable Mr. Thota Ashok Kumar, Member & the Honourable Mr. S. Bhujanga Rao, Member

Appeal No. : F.A.No. 681 of 2013 Against C.C.No. 48 of 2012 District Forum-I Chittoor

Appellant : Rama Devi and Others

Respondent : The Manager, Apsrtc Depot-ii Chittoor Town and District

Judgement :

Oral Order: (R. Lakshminarasimha Rao, Member)

1. The unsuccessful complainant is the appellant. She filed complaint claiming a sum of Rs.7,53,458/- along with interest thereon and an amount of Rs.25,000/- towards compensation and an amount of Rs.25,000/- towards costs.

2. The case of the appellants is that the first appellants husband and father of the appellants no.2 and 3 died on 11.08.2011. After his death, the appellants submitted claim for an amount of Rs.7,53,458/-. R.Venkatrama Naidu, K.Bhasker

Naidu and M.Subramanyam filed suits, O.S.No. 573 of 2011, O.S.No. 456 of 2011 and O.S.No. 534 of 2011 respectively before the Court of the I Additional Senior Civil Judge, Chittoor against the appellants for recovery of the amounts under pronotes and filed the petition for attachment of salary of the first appellants husband. The respondent failed to release the amount due to the appellants.

3. The respondent resisted the claim on the premise that it had received order from the Court of Senior Civil Judge, Chittoor in three suits, O.S.No. 573 of 2011, O.S.No. 456 of 2011 and O.S.No. 534 of 2011. The respondent submitted that it had to comply with the order of the Civil Court and in case it failed to comply with the order it amounts to contempt of court. The respondent further submitted that the deceased availed excess leave and that there is no amount due from the respondent towards leave benefits of the deceased husband of the first appellant.

4. The respondent submitted that the appellants had not approached the court which issued the attachment order and that unless a court would pass an order, the respondent cannot sanction the amount which is lying with it. There is no deficiency of service or negligence on the part of the respondent and as such the complaint is prayed for to be dismissed.

5. The first appellant filed her affidavit and the documents, Exs.A1 to A4. On behalf of the respondent, its Depot Manager filed her affidavit and the documents, Exs.B1 to B6.

6. The District Forum dismissed the complaint on the premise that it has no jurisdiction to entertain the complaint, more so, subject matter of which is pending before the Civil Court owing to the same cause of action.

7. Feeling aggrieved by the order of the District Forum, the complainant has filed the appeal contending that the District Forum has come to the wrong conclusion that it has no jurisdiction to entertain the complaint and that there is no any civil suit pending with regard to death benefits of the deceased husband of the first appellant. It is contended that the civil court can attach leave benefits and no other benefits of an employee and that there is no prohibition order passed by any civil court restraining the respondent to disburse the death benefits to the appellant.

8. The counsel for the respondent has filed written arguments.

9. The point for consideration whether there was any infirmity in the order of the District Forum?

10. It is beyond any dispute that the first appellants husband was working as conductor with the respondent corporation and he died on 11.8.2011 leaving the appellants as his successors. The respondent refused to pay the death benefits of Rs.7,53,458/- on the premise that the creditors of the deceased husband of the first appellant obtained order of attachment before judgement order and as such it did not release the death benefits to the appellants on apprehension that it would amount to contempt of court.

11. The learned counsel for the respondent has submitted that the respondent can pay service benefits of its deceased employee only after obtaining permission from the civil court where the litigation with regard to recovery of money has been pending. He has submitted that the appellants have not got impleaded themselves in the civil suit pending for recovery of the amount.

12. The District Forum has referred to the decisions of Haryana State Commission rendered in Karam Singh Vs State Bank of India I (1995) CPJ 59 and State Bank of India vs Shilender Chaudhary (Advocate, reported in IV (2010) CPJ 234. The Chandigarh state Commission in Shilender Chaudhary (advocate) (Supra) held that:

8.. Admittedly, the civil suit filed by the appellant-Bank is pending before the Civil Court and, therefore, the parallel proceedings for the same cause of action in the present complaint would be a misuse of the process of law and the complainant can seek relief in the said civil suit by filing counter claim and as such the impugned order passed by the District Consumer Forum is not sustainable in the eyes of law

13. In view of the submission of the learned counsel for the respondent that the respondent would come to the rescue of the appellant to pay service benefits after obtaining permission from the civil court where the litigation is pending with regard

to recovery of money, this Commission of the view that the respondent would take appropriate steps in this regard. However, the respondent cannot be compelled to disobey the order of the court to pay the amounts to the appellants.

14. In the result the appeal is dismissed confirming the order of the District Forum. No costs.

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