

P. Sivakumar Vs. the Branch Manager, State Bank of India

P. Sivakumar Vs. the Branch Manager, State Bank of India

SooperKanoon Citation : sooperkanoon.com/1109798

Court : Tamil Nadu State Consumer Disputes Redressal Commission SCDRC
Chennai

Decided On : Feb-22-2011

Judge : Honourable Thiru Justice M. Thanikachalam President, Thiru J. Jayaram,
M.a., M.L., Judicial Member & Thiru S. Sambandam, B.SC., Member II

Appeal No. : F.A.598/2008 [Against order in C.C.No.83/2007 on the file of the
DCDRF, Trichy]

Appellant : P. Sivakumar

Respondent : The Branch Manager, State Bank of India

Judgement :

The appellant as complainant filed a complaint before the District Forum against the respondent/opposite party praying for the direction to the opposite party to pay total compensation of Rs.4 lakhs. The District Forum allowed the complaint, against the said order, this appeal is preferred praying to enhance the amount, as per the order of the District Forum dt.21.11.2007 in C.C.83/2007.

This appeal coming before us for hearing finally on 09.02.2011, upon hearing the arguments of the either counsels and perused the documents, as well as the order of the District Forum, this commission made the following order:

M. THANIKACHALAM J, PRESIDENT

1. The complainant is the appellant.

2. The complainant/appellant, who aspired to become a Sub-Inspector of Police in Tamil Nadu Uniformed Service, intended to submit an application in the month of August 2006, approached the opposite party to get a Demand Draft of Rs.250/-, which was essential to be attached with the application form. The opposite party, having collected the amount and the service charge, though issued a Demand Draft for Rs.250/-, failed to sign in the Demand Draft, which was sent along with the application. The application was rejected by the authority concerned, since the Demand Draft was not signed by the Branch Manager, thereby demolishing the expectation of the complainant, to secure the job, further causing mental agony, deficiency in service, for which, the complainant is entitled to total compensation of Rs.4 lakhs. Thus, claiming, a complaint came to be filed before the District Consumer Disputes Redressal Forum, Trichy.

3. The opposite party admitting the purchase of a Demand Draft, for a sum of Rs.250/- by the complainant, opposed the complaint contending that their officials have duly discharged their service by issuing the valid Demand Draft, that the complainant should have verified, not verifying, he was negligent, for which, the opposite party cannot be held responsible, that the Consumer Forum has no jurisdiction since the dispute is not a consumer dispute, thereby praying for the dismissal of the complaint.

4. The District Forum taking into consideration, the admitted facts as well as the mental agony suffered by the complainant, finding fault with the opposite party, as if, they have committed deficiency in service also, granted only a sum of Rs.2,000/- as compensation with cost of Rs.500/-, which failed to satisfy the complainant, resulting this appeal, for enhancement.

5. The opposite party though suffered an adverse order, has not challenged the same, by preferring any separate appeal, thereby compelling us to say, that the findings rendered by the District Forum regarding negligence and deficiency, reaching finality. Therefore, in this case, we are concerned mainly regarding the quantum of compensation, whether under the heading, deficiency in service or negligent act or mental agony as the case may be.

6. There is no dispute between the parties, regarding the purchase of a Demand Draft by the complainant for Rs.250/-, paying necessary fees, in order to apply for the post of Sub-Inspector in Tamil Nadu Uniformed Service, for the year August 2006. It is also an admitted fact, atleast at present, as seen from Ex.A3 that the Demand Draft was not signed by the Manager concerned, whether it is inadvertently or otherwise. Because of the non-sending of the Demand Draft, which was attached with the application, the application was not accepted whereas as returned, as seen from Ex.A2, where we find specific remarks, that the Demand Draft does not contain the signature of the Bank Manager. Only thereafter, when the complainant approached the Bank they issued Ex.A3 admitting the mistake to some extent. It is a known fact, that the Demand Draft cannot have validity, unless it is signed by the authorized signatory. Therefore, the issuance of Demand Draft by the opposite party bank without signature of the Manager, should be construed as negligent act and it should be taken as deficiency in service. Because of the improper issuance of the Demand Draft, application was also returned to the complainant, thereby he suffered mental agony, leave alone the question, whether he would have been selected for the post or not, that is not our concern. The District Forum considering these facts, has correctly come to the conclusion, that there was deficiency in service and that is why, that finding is not challenged by the opposite party by preferring any appeal. Thus, confirming the negligent act of the opposite party, as well as deficiency in service, now, we have to see, whether the complainant was properly compensated for the deficiency in service committed by the opposite party.

7. The complainant before filing the case, issued a notice through lawyer and thereafter by engaging a Lawyer, he has filed a complaint. Presumably, he should have spent some considerable amount. Because of the non-acceptance of the application, his hope or expectation to become a Sub-Inspector of Police was shattered into pieces, causing mental agony, worry and other kind of sufferings also. True, the complainant also should have taken some care, before sending the application, checking the Demand Draft in order to find out its validity, which he failed, that does not mean, the negligent act committed by the opposite party, should be allowed to escape, unquestionably that too not properly compensating the complainant. In a case of deficiency in service, proceeding by negligent act,

the Consumer Forum should take into account all the attending circumstances, while granting compensation, which should be reasonable not unreasonable. Unfortunately, the District Forum has granted only a meager sum of Rs.2,000/-, which may not be even sufficient, to meet the expenses, the complainant would have incurred, in filing the case. Thus, considering the meager compensation granted by the District Forum, as well as having regard to the facts and circumstances of the case, there was admitted negligence on the part of the opposite parties, we are inclined to enhance the compensation to some extent and we feel at this stage, a reasonable compensation of Rs.15,000/-, may meet the ends of justice, though it will not fully satisfy the expectation of the complainant. Hence, the appeal is to be allowed, to the above said extent.

8. In the result, the appeal is allowed, order of the District Forum is modified, directing the opposite party to pay a sum of Rs.15,000/- as compensation [which includes the amount granted by the Lower Forum also] with cost of Rs.1,000/-, within two months from the date of receipt of this order, failing which, the compensation amount shall carry interest at 9% per annum, from the date of default, till the date of payment. No order as to cost in this appeal.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com