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Court : Tamil Nadu State Consumer Disputes Redressal Commission SCDRC Chennai

Decided On : Dec-16-2010

Judge : Honourable Mr. Justice M. Thanikachalam President, Honourable Mrs Justice Vasugi Ramanan, M.a.,B.L., Member I & Honourable Mr. Justice S. Sambandam, B.SC., Member II

Appeal No. : F.A.No.719 of 2008 (Against Order in C.C.NO.17 of 2007 on the file of the DCDRF, Nagapattinam)

Appellant : The Assistant Postmaster (Sb), Head Post Office and Another

Respondent : Rajaram and Another

Judgement :

M. Thanikachalam J, President

1. The opposite parties are the appellants.
2. The 1st respondent/ 1st complainant, having deposited a sum of Rs.30400/-, with the 1st opposite party/ post office, in Time Deposit Account No.14711 on 25.2.2004, obtained a pass book also, fixing the period one year. On the date of maturity, when the 1st complainant approached the 1st opposite party, they refused to pay the amount, informing that in the account, there is only Rs.400/-.

Because of the refusal, the 1st complainant preferred a complaint, resulting enquiry, which revealed, as reported, the agent had prepared a false pass book, suppressing the entire deposit, disclosing only a sum of Rs.400/-, for which the 1st complainant cannot be held responsible. The passbook was issued by the 1st opposite party, signed, attested, and therefore they are liable to pay the amount. Despite request letters, since the opposite parties have failed to pay the amount, they have caused mental agony, for which also, the complainant is entitled to pay a sum of Rs.25000/-, in addition to the matured amount, with interest, as deposited. Hence the complaint.

3. The opposite parties, though admitted TD Account No.TJ 14711, in the name of the complainant, they denied the deposit of Rs.30400/-, contending that one Sridhar SAS agent, had deposited only a sum of Rs.400/-, and if at all, he should have cheated, for which they are not liable to answer the claim. When the complainant has reported the matter, enquiry conducted, which brought to surface, that the SAS Agent G. Sridhar, has misused the deposit amount, given to him, and forged the signatures of the postal officials, in the pass book, for which the postal department, cannot be held responsible, that too in view of the fact, Sridhar was appointed as Small Savings agent, by the State Government, not by the post office, thereby praying for the dismissal of the complaint, further contending that they have not committed any negligence, or deficiency in service.

4. Based upon the affidavits, and documents, relied on by the parties, the District Forum, came to the conclusion, that Sridhar was appointed as agent to canvass small savings deposit, which are deposited at post offices, and in this view, the principal viz. the opposite parties are responsible, since the agent acted on their behalf. Thus concluding, a direction has been issued to pay a sum of Rs.30400/-, with interest, as permissible, alongwith a further sum of Rs.5000/-, for deficiency in service, with cost, as per order dt.20.12.2007, which is impugned on various grounds, by the opposite parties.

5. The 1st complainant, had opened TD A/c.No.TJ 1471, with the 1st opposite party/ post office, is not in dispute. According to complainant, he had deposited a sum of Rs.30400/- for one year, whereas, it is the case of the opposite parties, that

the amount available or deposited in the said account was only Rs.400/-. After the maturity period of one year, admittedly, when the 1st complainant claimed the amount, dispute arose, followed by enquiry, as stated even in the written version. But the sufferer is the complainant. Though a criminal case filed against the agent, by name Sridhar, the complainant was unable to realize the amount viz. Rs.30400/-, which is in a way admitted, as seen from the written version, as paid by him, to the agent, but responsibility was disowned. In this context, we have to see, who had acted on behalf of the complainant, and who was empowered to collect the amount, and deposited the same, in the post office account.

6. Ex.B10 is the appointment order, issued by the State Government, appointing one G.Sridhar, as the agent, attached to the post office Thanjavur, empowering him, to canvass and to collect the amount, from the people, even by cash, if the amount does not exceed Rs.50000/-. The agent so appointed as per order dt.18.9.2003, was recognized by the 1st opposite party, accepted as seen from Ex.B11-letter. Therefore, if the agent had acted, on behalf of the principal viz. in this case, the 1st opposite party, to collect, and deposit the amount, had committed any defects or misappropriation, as the case may be, the 1st opposite party should be held responsible, because of the fact, under the authority and seal of the 1st opposite party alone, the agent had collected the amount, and the depositors also have paid the amount to him. In this way, whether the said G.Sridhar, had collected the amount, directly from the complainant or from his relative, on behalf of the complainant, when the said somebody has not claimed, the 1st opposite party is responsible. Therefore, next we have to see, whether the complainant had actually deposited the amount, to the viz. G.Sridhar.

7. Ex.A1 is the pass book, issued by the 1st opposite party. As revealed by the document, though its genuineness is challenged, by the 1st opposite party, it does contain the requisite stamps, signatures, etc., and the ordinary depositors had no chance, to doubt about the genuineness of the document. But as seen from document produced on behalf of the 1st opposite party, only a sum of Rs.400/- was deposited, thereby showing the difference of Rs.30000/-. As said above, when the complainant had approached after maturity, investigation conducted, which revealed, even as reported in Ex.A7, Sridhar had received Rs.30400/- for

opening a TD account in the name of the complainant, though it says, further only a sum of Rs.400/- was deposited, thereby showing as far as the complainant is concerned, he had deposited a sum of Rs.30400/-, for which Ex.A1 pass book was issued, though it does not reflect in the account, maintained by the 1st opposite party. Upon enquiry, realizing the mischief and misappropriation committed by the agent, a criminal complaint was given, followed by registration of a case also. The account produced before the District Forum, also would reveal that the agent is prepared the document, as if the complainant had deposited a sum of Rs.30400/-, which is in a way admitted by the opposite party, in the written version. It is not the case of the opposite parties, that the complainant has not paid the amount to the agent, or the agent has not received the amount from the complainant.

8. In paragraph 3 it is said It was confirmed after making necessary enquiries that the said Sri G.Sridhar, SAS Agent is fully responsible for the amount of money received from the complainant. further confirming in paragraph 5 From the departmental enquiry, it has come to notice, that the SAS agent Sri G.Sridhar, has misused the deposit amount, that was given to him and he forged the signatures of the postal officials in the pass book, for which Department is not responsible. Therefore, based upon the proof affidavit, filed by the complainant, which is in a way supported by the written version, we are inclined to conclude, that the complainant had deposited a sum of Rs.30400/-, in the TD account, for which the 1st opposite party is answerable, as the principal. An attempt was made to escape from the liability, by the post office, as if the agent was nominated by the State Government, and they are not liable for the misappropriation committed by the said agent, in which submission, we are unable to concur, since as pointed out by us supra, the appointment of Sridhar, as SAS agent was recognized, and approved by the 1st opposite party, thereby taking responsibility also.

9. Admittedly, the amount deposited by the complainant, has not reached to his hands, i.e., due to the negligent act, or deficiency in service, on behalf of the 1st opposite party, either in not supervising properly, or checking the agents from time to time, which should be construed, as deficiency in service. Considering these points, the District Forum has issued the first direction, directing the 1st opposite party to pay a sum of Rs.30400/-, with interest, as applicable to the other deposit,

from the date of receipt, till realization, in which finding, we cannot differ, whereas we confirm the same. For the amount deposited, interest is ordered to be paid, not only for the period of deposit viz. one year, but also till the amount is fully paid, or realized, thereby compensating the complainant, for the deficiency in service, in this view, granting compensation for deficiency in service. may not be legally sound, and therefore, we are inclined to disallow or set aside the grant of compensation of Rs.5000/-, confirming the order, regarding the cost.

10. In the result, the appeal is allowed in part, modifying the order of the District Forum in O.P.No.17/2007 dt.20.12.2007, setting aside the order of compensation alone, otherwise confirming the order of the District Forum. There will be no order as to cost in this appeal.

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