

The Senior Postmaster Vs. Mrs. G. Nalini and Another

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Court : Tamil Nadu State Consumer Disputes Redressal Commission SCDRC
Chennai

Decided On : Aug-13-2010

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

Appeal No. : F.A.NO.838 of 2006 (Against order in C.C.NO.1 of 2003 on the file of the DCDRF, Thanjavur)

Appellant : The Senior Postmaster

Respondent : Mrs. G. Nalini and Another

Judgement :

(The Respondents as complainants filed a complaint before the District Forum against the Appellant / opposite party praying for the direction to the opposite parties to accept the amount of Rs.15100/- alongwith compensation of Rs.20000/- . The District Forum partly allowed the complaint. Against the said order, this appeal is preferred praying to set aside the order of the District Forum dt.7.5.2003 in O.P.No.1/2003.)

M. THANIKACHALAM J, PRESIDENT

1. The unsuccessful opposite party is the appellant.
2. The facts necessary for the disposal of the appeal in brief:

The complainants, who are wife and husband, have joined in the Public Provident Fund Scheme, initiated by the Government, run by the opposite party, elsewhere in the month of February 1999, jointly. Initially, on 6.2.1999, they have deposited a sum of Rs.5000/-, thereafter on 10.7.99, deposited a further sum of Rs.5000/-, and a further sum of RS.100/- on 11.2.2002. Including the interest payable by the opposite party, as per the pass book entry on 11.2.2002, there was a total sum of Rs.17,949/-, payable to the complainant.

3. In the month of June 2002, the complainants were informed, that PPF account opened in their joint names, is not in accordance with the rules. Thereafter, the complainants requested, to convert the PPF account, in the name of the 1st complainant, but the opposite parties, refusing to do so, sent a sum of Rs.15,100/-, with a covering letter dt.31.10.2002, quoting Rule 25 of Public Provident Fund, as if for the irregular account, the complainants are not entitled to claim interest, which is illegal and improper, thereby committing not only deficiency in service, but also causing mental agony. Informing the deficiency through notice, compensation claimed, including interest, not paid, for which there is no positive result, thereby the complainants are constrained to file this case, to regularize the account in the name of the 1st complainant, or in the alternative for the payment of a sum of Rs.10000/-, towards damage in addition to payment of interest, for the principle amount of Rs.15,100/-.

4. The opposite party, admitting the account opened by the complainants, as well payment of a sum of Rs.15,100/- on four occasions, would contend that the irregular opening of account was noticed by the audit, and pursuant to the audit objection, the account was closed, sending the principle amount, to the complainants, in which there cannot be any deficiency in service, since they have acted as per the rules, though belatedly, for which the complainants are neither entitled to compensation, nor interest, thereby praying for the dismissal of the complaint.

5. The District Forum, receiving the affidavits from the parties, marking certain documents, while scanning the same, it brought to surface that though a irregular PPF account was opened, the account holders are entitled to interest for the

amount deposited, that the non-payment of interest should be construed as deficiency in service. Thus taking the view, negating the claim of the complainants, for compensation, directed the opposite party to pay the interest alone @12% p.a., from the date of each deposit, working out at Rs.5758/-, with cost, further directing if the amount is not paid within the time contemplated, that will carry interest @9% p.a., thereby causing grievance, resulting this appeal.

6. Heard the learned counsel for appellant as well as the respondent, perused the written submissions, lower court records and also the order passed by the District Forum.

7. The main submission of the learned counsel for appellant was that the Public Provident Fund Account was opened, against the rules, when noticed, cancelled, and as per the rules, principle amount alone had been paid, which cannot be termed as deficiency in service, not properly considered by the District Forum. A further submission was made, that for the inadvertent mistake, committed by the staff, the post office cannot be made liable, placing reliance upon the decision of the National Commission in RP.No.3390/2008 dt.23.10.2009, which was opposed.

8. The complainants, attracted by the publicity made by the department, joining together, being husband and wife, opened a PPF account, in the opposite party post office, in the year 1999, under the hope they will get reasonable interest, for their deposit. The opposite party staff, who were not aware of the rules, opened the joint account, in the name of the complainants jointly, permitted them to deposit amounts, on various dates, totaling a sum of Rs.15,100/-, which also have earned interest, as per the endorsement, made in the pass book. Subsequently, when an audit had taken place, in the opposite party, they have noticed the irregularity committed by the opposite party, in opening joint account, which is prohibited or prevented by Rule 25 of PPF, which says, the account cannot be opened in the joint name. Pursuant to the objections raised by the audit, they have closed the account, despite the request made by the complainants, to convert the account in the 1st complainants name, and sent the principle amount alone viz. Rs.15100/-, thereby denying the interest, even which was accrued, as per the entry made in the pass book. The complainants unable to get the interest, unable

to get conversion, feeling aggrieved, filed the case as said above, which ended partially in their favour, denying major relief, for which no appeal has been filed. The opposite party aggrieved by the order of interest alone, has questioned the findings, on various grounds, as seen from the memorandum of appeal.

9. The District Forum, not only considered Rule 25 of Public Provident Fund, but also considered Rule 6, which enabled the opposite party to pay interest, even in the case of irregular account. In paragraph 11 of the order, the finding is recorded as follows:

Even under Rule-6 clause (2) it is clearly mentioned that when the post offices refund the deposit amount on the ground that it is an irregular account, it shall be taken into consideration that the amount so received from the subscribers actually remained with Government and that therefore, an interest on these accounts may be paid upto the date of refund t the prevailing Post Office Savings Bank rates.

which observation, we have to endorse, since it is not challenged, as if incorrect findings, or as if it is not available under the said rule. Therefore, the further observation of the District Forum, that the opposite party cannot take shelter under Rule 25, denying interest, is also acceptable to us. Thus, considering the provisions, the District Forum has granted only the payment of interest, denying other reliefs, which should be construed as a sell considered judgement, based upon legal principle, since it has further considered the provisions Sec.65 and 70 of the Indian Contract Act also.

10. The submission of the learned counsel for appellant, placing reliance upon the above judgement, is not acceptable to us, since factually that is distinguishable. Here it is not the case of the opposite party, staff committing any mistake such as, not correcting the rate of interest, or acting against the rule, except opening a joint account, which is labeled as irregular account. Whether it is irregular amount or otherwise, admittedly the opposite party had the benefits of the amount, deposited by the complainant, and having enjoyed the benefit of that amount, they are bound to pay interest under equity also, which was considered even in the decision relied on by the learned counsel for appellant, wherein relying on the earlier precedent, a direction has been issued, to pay interest, that can be taken as guidance, to this

case also, for awarding interest. When this was pointed out, the learned counsel for appellant would submit, that the rate of interest granted by the District Forum, is on the higher side, which appears to be acceptable. As seen from Ex.A1, the rate of interest permissible is, at 9.5% p.a., whereas the District Forum has granted 12% p.a., and in this view, it should be reduced. Though the complainant had claimed other reliefs, dismissed, not challenged. Considering the above facts and circumstances of the case, we are inclined to confirm the findings of the District Forum, in granting interest for deposits, but restricting the interest @9.5% p.a., instead of 12%, and accordingly the order should be modified.

11. In the result, the appeal is allowed in part, modifying the order of the District Forum in CC.1/2003 dt.7.5.2003, directing the opposite party to pay interest @ 9.5% p.a., from the date of each deposit, till its realization (which is to be worked out), confirming the cost of the District Forum, ordering no cost in this appeal. Time for payment two months, failing which, this amount shall carry interest @12% p.a., from the date of default, till date of realization.

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