

Union of India and Others Vs. Inder Krishan Kaul and Others

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Court : Delhi State Consumer Disputes Redressal Commission SCDRC New Delhi

Decided On : Nov-19-1996

Judge : A.P. Chowdhri, President; the Honourable Ms. Justice S. Brar Member & Desh Bandhu, Member

Appeal No. : Case No. A-62 of 1995

Appellant : Union of India and Others

Respondent : Inder Krishan Kaul and Others

Advocate for Pet/Ap. : Mr. R.V. Sinha

Judgement :

A.P. Chowdhri, President:

1. One Smt. Roopaji obtained some six-year National Savings Certificates from GPO, Srinagar on 11.6.85. The certificates were to mature for payment alongwith interest which had accrued on 11.6.91. Smt. Roopaji had nominated the respondents as nominees under the said certificates. Because of terrorist activities in the valley Smt. Roopaji and other members of the family had to shift to Delhi where she died on 16.9.90. On the maturity of the NSCs the nominees, through Mr. Inder Krishan Kaul, requested Sub- Post Master, Timarpur to take necessary steps so that after verification the amount could be paid to the nominees. The Sub-Post Master wrote to GPO, Srinagar to verify the particulars. In spite of all

fomalities having been completed by the nominees, payment was not made and the nominees filed a complaint before District Forum-I on 18.2.93. The complaint was contested. During the pendency of the same, payment of Rs. 32,240/- was made on 24.3.93. The District Forum, on a consideration of the material before it, held that the postal authorities failed to make payment within a reasonable time from maturity and request for payment having been made and the same having - not been complied which amounted to deficiency in service. The District Forum directed the opposite parties to pay interest @ 13% p.a. for the period 15.1.92 to 24.3.93 besides Rs. 1,000/- to each of the complainants as compensation and Rs. 250/- as costs. Aggrieved by the order, the opposite parties have preferred this appeal.

2. Reply has been filed on behalf of the respondents by Mr. Inder Krishan Kaul. We have heard learned Counsel for the appellant and representative of the respondents.

3. We may first deal with application for condonation of delay. The relevant dates are: decision of the District Forum is dated 8.12.94. Certified copy was received by the appellant on 14.12.94. The Competent Authority took a decision to prefer an appeal. Department of Legal Affairs was moved to appoint a Counsel on 12.13.1.95 whereafter the present Counsel was appointed and brief handed over to him. The Counsel was indisposed for about a week and in the circumstances there occurred a delay of 25 days in filing the appeal. The application has been opposed. After careful consideration of the facts and circumstances of the case and the reasons given by the appellant, we condone the delay keeping in view the settled principle that power to condone delay under Section 5 of the Limitation Act should be exercised liberally to advance the cause of justice. We have also kept in mind various factors which are relevant and which were dealt with in detail in our decision in DDA v. I.S. Narula, III (1995) CPJ 333 in which inter- alia reference was made to Collector, Land Acquisition v. Katreji, AIR 1987 SC 1353 and Union of India v. R.P. Builders, 194 Rajdhani Law Reporter 460 (DB). Keeping those considerations in mind we are of the view that sufficient cause for the delay has been made out. We, therefore, condone the delay in filing the appeal.

4. The next question is as to the effect of filing a single appeal in four connected cases. There is no doubt that strictly speaking the appeals should have been separately filed. In the facts and circumstances of the present appeal, however, a strictly technical view should not be taken. The District Forum consolidated four different complaints by a specific order as common questions of law and facts were involved. The said four complaints were disposed of by a common judgment rendered in Complaint Case No. 532/93 Inder Krishan Kaul v. Senior Supdt., of Post Offices and Anr. In the appeal, the complainants in the four cases were arrayed as respondents. Mr. R.V. Sinha, learned Counsel for the appellant, states that the present appeal may be treated as four separate appeals. No Court-fee is liable to be paid under the provisions of the Consumer Protection Act. Filing of separate appeals in the facts and circumstances would only mean so much more paperwork. No prejudice has been caused to the parties and for all these reasons, we treat the present appeal as four separate appeals filed against the order arising in four different complaints. It would result in failure of justice if we were to dismiss the appeal on the technical ground that a separate appeal was required to be filed in the order arising in each individual complaint.

5. Mr. Sinha contended that the District Forum erred in accepting a joint affidavit filed on behalf of the four complainants. In the nature of things, it was inconceivable that there can something like a joint affidavit. Mr. Sinha was asked whether any objection to this effect was taken before the District Forum. Mr. Sinha replied in the negative. If any objection had been taken, the complainants could without any difficulty, file four separate affidavits. It bears repetition that facts and circumstances of the case were not identical but common and the four complainants are nominees of the holder of the National Savings Certificates, who died. In the circumstances, we do not propose to non-suit the complainants for the aforesaid technical reason.

6. The next contention of Mr. Sinha is that the application for payment was received on 7.7.92 and the department was entitled to process the cases, viewed in this context. According to Mr. Sinha, there was no unreasonable delay and consequently there was no deficiency in service. This contention must be rejected.

7. A perusal of the record shows that Mr. Inder Krishan Kaul made the necessary application addressed to the Chief Post Master, Head Post Office, The Bund, Srinagar on 25.11.91 which was forwarded for necessary verification by Sub-Post Master, Timarpur, Delhi on 27.11.91. Reply to the above was received from GPO, Srinagar dated 23.12.91 and a further letter from GPO, Srinagar on 26.5.92. It cannot, therefore, be said that the application of the complainants was received on 7.7.92. Even if, the date suggested by Mr. Sinha is as the date of receipt of application from the complainants. We find that there was un-reasonable delay in making the payment.

8. The last submission of Mr. Sinha is that the rate of interest allowed is excessive. Having regard to the rate of interest allowed in various matters by the National Commission we do not think that the interest allowed @ 18% p.a. is excessive. With regard to compensation and costs of the litigation, the District Forum has erred on the side of leniency. Since there is no cross appeal filed by the complainants, we are unable to interfere. In the result we find no merit in these appeals. The same are, accordingly, dismissed with costs amounting to Rs. 1,00/- in each case. A copy of this order be communicated to the parties as well as District Forum-I.

Appeal dismissed with costs.

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