**Ravinash Kumar Vs. the Union of India and Others**

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**Court** : Bihar State Consumer Disputes Redressal Commission SCDRC Patna

**Decided On :** Apr-18-1995

**Judge** : B.N. Sinha, President &Amp; the Honourable Mrs. Kalpana Ashok, Member

**Appeal No.** : Complaint Case No. 65 of 1992

**Appellant** : Ravinash Kumar

**Respondent** : The Union of India and Others

**Judgement** :

B.N. Sinha, President:

1. The complainant has filed this case alleging negligence and deficiency in service on the part of the opposite party causing financial loss, physical harassment and mental anguish to him.

2. The facts of the case as alleged by the complainant may be briefly stated. The Unit Trust of India the opposite party floated a scheme for investment known as MISG-(5) 1985, the dividend on which was payable every month sent to the investors by means of dividend warrants. The complainant invested a sum of Rs. 10,000.00 in the said scheme on 11.9.85 and opposite party Nos. 1 to 4 issued Unit Certificate No. 85220214 for 100 units. According to this scheme the investment was for a period of five years, the due date of maturity of which was the last day of October, 1990. The complainant was given the option either to

receive the entire maturity proceeds or to re-invest the same. The opposite party declared that on maturity the complainant was entitled to get the principal amount of Rs. 10,000.00 + capital appreciation of 10% i.e. a total sum of Rs. 11,000.00 payable on 1.11.90. The complainant got the monthly dividend regularly till its maturity in October, 1990. The complainant received letter dated 22.10.90 from opposite party No. 3 informing that his investment was going to mature on the last day of October, 1990 and he was given an option to reinvest the same in another monthly income scheme which was going to be launched from 1st November, 1990. The complainant exercised his option to re-invest in the new monthly income scheme and personally handed over the aforesaid Unit Certificate after completion of all the formalities to the opposite party No. 4 which was acknowledged by the opposite party No. 4 by post vide his communication/letter dated 15.11.90. Opposite Party No. 4 passed the said unit certificate to opposite party No. 3 for completion of the formalities and to issue a certificate under the re-investment scheme and the complainant was advised by the opposite party No. 4 to correspond with opposite party No. 3 in this regard in future. Opposite party No. 2 had appointed M.N. Dastur and Company Ltd. opposite party No. 5 as its Registrars for the scheme in question. Opposite Party No. 3 in its term passed on the aforesaid unit certificate to opposite party No. 5 for completion of the formalities and issuance of the re-investment certificate. The complainant received communication dated 22.2.91 from opposite party No. 5 mentioning inter alia that in case the complainant did not receive the Re-investment Unit Certificate latest by 30th of April, 1991, the complainant may write to opposite party No. 5. When the complainant did not receive the certificate, he sent letter dated 3.6.91 to send his re-investment certificate along with dividend warrants. But the complainant did not receive any reply. Hence he sent another letter dated 13.10.91 to opposite party No. 5 for the same, but in vain. The complainants agent through whom the investment had been made by the complainant, sent letter dated 6.2.92 to opposite party No. 5 which also failed to have any response whatsoever. The complainant ultimately personally called on opposite party No. 4 who advised him to submit an application in Form 2 for issuance of duplicate Unit Certificate and Dividend Warrants. The performa was supplied by opposite party No. 4 to him. The complainant personally handed over application form duly filled up to opposite party No. 4 on 3.4.92 after completing all the formalities which was duly acknowledged by opposite party No. 4. But still the complainant did not receive original certificate or duplicate certificate thereof nor any intimation in respect thereof. Thereafter the complainant sent another letter dated 1.6.92 under registered cover with A/ D to opposite party No. 3 with regard thereto which was received by opposite party No. 3 on 11.6.92. But inspite of all these letters being sent and reminders made by the complainant, the complainant did not receive the re-investment certificate in original or duplicate nor the dividend warrants in respect thereof nor any reply was sent with regard thereto by the opposite party. The complainant has been put to hardship in his day to day life on account of non-issuance of the dividend warrants. The complainant being a retired government officer income through dividend warrant has much value to him. He could have invested the amount received in some profitable investments.

3. The complainant has filed the case seeking direction to the opposite party for issuance of Unit Certificates showing investment of a sum of Rs. 11,000.00 alongwith dividend warrants with effect from 1.11.90 alongwith interest thereon for delayed payment thereof. He has also claimed rupees one lac as compensation for the harrassement, mental anguish and expenditure sustained by him due to negligence and deficiency in service on the part of the opposite party.

4. On being noticed the opposite party appeared and filed a joint written version admitting the facts that the complainant opted for reinvestment under MISG-90(II). It is averred further, that on knowing of the option of the complainant the matter was immediately taken up with the Registrar and in compliance with the complainants request to invest under MISG90(11) Unit Certificate No. M9022130991 for Rs. 1100.00 Unit was issued in favour of the complainant and the same along with 48 dividend warrants were despatched to the complainant on his address by registered post under Registration Receipt No. UTM043389 from Calcutta G.P.O. and the same was not returned un-delivered and hence the Trust and its Registars presumed that they have been duly delivered to the complainant. It is further averred that in accordance with the provisions of the scheme in case a unit holder did not receive his certificate/or dividend warrants duly despatched by the Trust or its Registrar the unit holder was required to execute an undertaking

which may be stamped or unstamped in accordance with the value of such certificate or dividend warrants to enable the trust to issue a duplicate unit certificate and or dividend warrants which is done mainly to safeguard the interest of the investors. The undertaking (Form II) for issue of duplicate certificate filed by the complainant to the Trusts Patna Office was not received by the Trusts Calcutta Office though the same had been duly despatched by the Trusts Patna Office and on receipt of the complaint from the complainant with regard to the non-receipt of the re-investment certificate and dividends, the Registrar forwarded to him the required general form of an undertaking for the issue of duplicate certificate and dividend warrants on 29.10.92 which was received back by the Registrar on 30.11.92 duly executed by the complainant. The Registrar immediately initiated proceeding for issue of duplicate certificate and dividend warrants and they were duly issued by the Registrar and the same was forwarded to the complainant by the Trust under covering letter dated 28.11.92 through a courier service which was received by one Mr. Rameshwar Ram on 6.1.93 at the complainants residence. On these facts it has been asserted on behalf of the opposite party that there is no negligence and deficiency in service on their part and therefore the complainant is not entitled to take any action with regard thereto. The complainant in his affidavit filed before this Commission has admitted that on 6.1.93 he received the Unit Certificate and dividend warrants in duplicate, after a delay of about one year.

5. On the admitted facts on 6.1.93 the duplicate Unit Certificate and the dividened warrants were received by the complainant. There is nothing on the record to disbelieve the averment of the opposite party in the counter version that initially the Re-investment Certificates and Dividend Warrants were sent to the complainant under Registered cover which were not returned undelivered and that application Form II, filed by the complainant as advised by the opposite party No. 4 was sent to the opposite party No. 3 by opposite party No. 4 through post but it was not received by opposite party No. 3. But it appears that the complainant after waiting for about two months for duplicate Unit Certificate and Dividend Warrants after submission of duly filled up application in Form II for the same to the opposite party No. 4 and thereafter informed the opposite party No. 3 with regard to the nonreceipt of the Unit Certificate and Dividend Warrants by him through letter dated 1.6.92 under registered cover with A/D which was received by the opposite

party No. 3 on 11.6.92. This fact has been stated by the complainant on sworn affidavit and the opposite party has not denied this assertion by the complainant. Of course the opposite party has said in their counter version that considering the volume of applications handled by the Trust and its Registrar it is always not possible for the to the letters received from the Unit holders. In the present case however this excuse can be no help to the opposite party because the complainant suffered financial loss due to delay in the issuance of duplicate Unit Certificate and Dividend Warrants to the complainant.

6. Though the opposite party No. 3 received the Registered letter sent by the complainant on 11.6.92, but the opposite party sent the required forms to the complainant on 29.10.92, i.e., four months after the receipt of the complainant letter and about two months after filing of this case by the complainant. The duplicate Unit Certificates and Dividend Warrants were sent by the opposite party on 28.12.92 i.e. more than six months after the receipt of the aforesaid letter sent by the complainant which were received by the complainant on 6.1.93. The duplicate Unit Certificates and Dividend Warrants could be received by the complainant after he took recourse to the instant case. Hence there was negligence and deficiency in service on the part of the opposite party which has caused financial loss besides mental anguish and physical strain to the complainant and the complainant deserves to be aptly compensated for the same. If the complainant had received the dividend warrants within time he could have invested the amount received by him through dividend warrants in profitable investments. He being a retired officer, income from these investments has much value in meeting day to day needs. He had to undertake prolonged correspondence to approach the opposite party No. 4 at Patna several times and to file this case to procure the Re-investment Unit Certificates and dividend warrants. Under the circumstances we feel that at least Rs. 5,000.00 has to be awarded to the complainant as compensation in respect thereof. Hence the opposite party is directed to pay Rs. 5,000.00 as compensation for the financial loss, mental anguish and physical strain caused to the complainant. The opposite party is also directed to pay Rs. 1,000.00 as cost of the case.

Complaint allowed with costs.