

(2024) 11 NCDRC CK 0010

National Consumer Disputes Redressal Commission

Case No: Revision Petition No. 232 Of 2019

Senior Post Master

APPELLANT

Vs

Late P.L Ajmera (Through Legal
Heirs) & 2 Ors

RESPONDENT

Date of Decision: Nov. 14, 2024

Hon'ble Judges: Binoy Kumar, Presiding Member; Saroj Yadav, Member

Bench: Division Bench

Advocate: Ajay Kumar Pandey, Kishan Pandey, Vipin Kujur, Rashmi Mishra, Jitender Singh

Final Decision: Disposed Of

Judgement

Binoy Kumar, Presiding Member

1. This is a Revision Petition filed by Senior Post Master, Krishna Nagar, Post Office, Delhi (hereinafter referred to as 'Petitioner / Post Office') against the concurrent finding of Delhi State Consumer Disputes Redressal Commission (hereinafter referred to as the 'State Commission') dated 16.08.2018 in First Appeal No. 687/2012 and District Consumer Disputes Redressal Forum (East Delhi) (hereinafter referred to as the 'District Forum') dated 13.06.2012 in Case No. 746/2004.

2. The basic issue involved in this Revision Petition is the fraudulent withdrawal of certain amount from the MIS Account No. 13454 of Respondent no. 1 / Complainant, who along with her husband had opened the Monthly Income Scheme Account in the Krishna Nagar Post Office in the year 2001 and deposited in another fraudulently opened account in the name of the Complainants, being 612034 with the connivance of the Respondents Nos. 2 and 3, who are the agents and the staff of the Petitioner Post Office. The total amount deposited in the MIS Account was Rs. 5 lakh. With the connivance of the Respondents Nos. 2 and 3 and the staff of the Post Office, the MIS Account was closed and the amount diverted to the other forged Account No. 612034,

which was opened in the name of the Complainants without their knowledge and without any specific application for either closing the MIS Account or the transfer to another Account. An amount of Rs. 17,500/- was deducted by the Post Office for premature closure of the MIS Account without the knowledge of the Accounts Holders (Complainants) and the remaining amount of Rs. 4,82,500/- was transferred to the forged Account.

3. The learned Counsel for the Petitioner submitted that there is some error in the Order of the State Commission especially in so far as the date of the District Forum's Order and the Complaint Number. He pointed out that there are a number of cases filed against the Respondents Nos. 2 and 3 and the State Commission while passing the impugned Order has taken certain facts and figures from another case. He further pointed out that there is another Revision Petition filed before this Commission involving the same agents, who have duped other depositors as well.

4. The learned Counsel appearing for the Respondent No. 1 submitted that this is a case of concurrent finding and the scope of this Commission is very limited while deciding the Revision Petition. No new question of law has been put forth in the Revision Petition. Further, the error in the State Commission's Order, which is typographical in nature, has not been pointed out in the memo of Revision Petition.

5. The learned Counsel for the Respondents No. 2 and 3 submitted that the Respondent No. 2 is behind bars and has already been convicted and undergoing his sentence. However, the Respondent No. 3 has not been convicted and has been acquitted and is not involved in the matter.

6. Heard the arguments of the learned Counsel for the Parties.

7. It is a fact as seen from the record that there has been a case of connivance between the agents and the officials and the staff of the Post Office. The Complainants have been deprived of their deposited amount in the Post Office. Both the Commissions have dealt with the matter exhaustively and given well-reasoned Orders. We do not see any illegality in the Order of the State Commission, which requires any interference at the revisional stage by this Commission. The only issue to be decided is whether for this fraudulent action on the part of the staff of the Post Office and the agents, only the Post Office should be made deficient of service or there should be a joint liability on the part of both the Post Office and the Agents in depriving the amount of the Complainants / Depositors. The Complainants had operated the Accounts with the help of Respondents Nos. 2 and 3, who acted as intermediaries between them and the Post Office. The Post Office by itself would not have been in a position to close the MIS Account of the Complainants and open another Account and transfer the amounts to such newly opened Account, without the connivance of the Agents. Therefore, in our considered opinion, both are equally liable for the deficiency of service towards the

Complainants.

8. In view of the aforesaid, the Order of the State Commission is partially modified to the extent that both the Petitioners and the Respondents Nos. 2 and 3 are equally and severally liable for the deficiency of service and that in the first instance, the Petitioner shall by way of Demand Draft refund the amount of Rs. 5 lakh originally deposited by the Complainants and in view of the death of the Complainant No. 1, the legal heirs within six weeks of this Order along with interest @ 12% per annum from the date of deposit of said amount till realization and another Rs. 1 lakh as cost of litigation in favour of the Respondent No. 1. If such amount is not paid within this time limit, an additional 3% would need to be paid to the Respondent No. 1 from the date of this Order. It shall be open to the Petitioner to claim 50% of such amount paid to the Respondent No. 1 from the Respondents Nos. 2 and 3 under the provisions of law.

The Revision Petition is accordingly disposed of.