

(2024) 11 NCDRC CK 0084

National Consumer Disputes Redressal Commission

Case No: Revision Petition No. 2792 Of 2024

Realmark Oracle Project Llp. &

Others

APPELLANT

Vs

Averi Roy & Another

RESPONDENT

Date of Decision: Nov. 20, 2024

Hon'ble Judges: Dr. Inder Jit Singh, Presiding Member

Bench: Single Bench

Advocate: Abhik Kumar Das

Final Decision: Disposed Of

Judgement

Dr. Inder Jit Singh, Presiding Member

1. Heard learned counsel for the Petitioner. Challenge is to order dated 28.08.2024 of the State Commission vide which his First Appeal has been dismissed on account of limitation having been filed with a delay of 64 days as per orders of the State Commission. Although in the Condonation of Delay application filed before the State Commission, the Petitioner herein mentioned a delay of 62 days, now the Petitioner contends that the delay was only 14 days and not 64 days as recorded by the State Commission or 62 days as mentioned in his condonation of delay application. However, he has not shown us any evidence that even before the State Commission whether he pleaded that period of 62 days mentioned in his condonation of delay application is a mistake and actual delay was 14 days.

2. Before us, now the petitioner contends that the certified copy of the impugned order dated 18.05.2023 was received by them on 20.07.2023 only and counted from this date, the delay comes to 14 days only. In support of his contention he has drawn our attention to a stamp on the certified copy of the District Commission's order, which is a paid certified copy issued on 20.07.2023 but the column relating to date of dispatch

of free certified copy of the order has been struck and no date has been mentioned. The Petitioner herein claims that he was never supplied with a free certified copy. He further contends that on a similar practice the stamp on the State Commission's order do bear a date of dispatch of free certified copy, which is left blank in the District Commission's order. We see some merit in the contention of the Petitioner herein. However, in the absence of any document/evidence that he ever pleaded before the State Commission that the delay was 14 days and not 62 days as mentioned in his condonation of delay application, we do not find any illegality or material irregularity in the order of the State Commission in taking the delay as 64 days and then not finding the cause sufficient, rejecting the same.

3. However, considering that *prima facie* the contention of the Petitioner that the delay was 14 days appears to be correct as the order of the District Commission does not make any mention of the date of dispatch of free certified copy, in the interest of justice we remand the matter back to the State Commission for fresh consideration of his application for condonation of delay after obtaining a report from the District Commission as to whether any free certified copy of the order of District Commission was issued to the Petitioner herein if yes, on which date, if not the reasons thereof. In case the report of District Commission shows that no free certified copy of its order was issued, then the State Commission may treat the date of receipt of the certified copy as 20.07.2023. In this case the delay being only 14 days, the same may be condoned and matter may be taken up by the State Commission on merits after hearing both sides. In case State Commission after examining the report from the District Commission finds that the contention of the Petitioner herein about non-receipt of any free certified copy of the State Commission is wrong, it may pass any fresh appropriate orders on the condonation of delay application as it deem fit and may also impose cost as considered appropriate.

4. RP is disposed off accordingly.