

(1995) 07 NCDRC CK 0006

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

ANIL SOOD

APPELLANT

Vs

SHARDA BOIRON LAB. LTD.

RESPONDENT

Date of Decision: July 24, 1995

Citation: 1995 3 CPJ 362

Hon'ble Judges: A.P.Chowdhri , S.Brar J.

Final Decision: Application dismissed

Judgement

1. THIS order will dispose of application dated 22.8.94 for re-calling the order of this Commission dated 18.8.94. Briefly stated the facts are that the applicant purchased one 500 ML bottle of ALFALFA Tonic from the opposite party. It is alleged that the bottle contained foreign matter like straw, dust etc. The opposite party declined to replace the same. The applicant filed complaint before the District Forum which was registered as complaint No. 1589 of 1992. During the proceedings the District Forum sent the bottle which was sealed in presence of opposite party to the Homeopathic Pharmacopoeia, Ghaziabad. The said Laboratory sent a report adverse to the applicant. The applicant, therefore, prayed to the District Forum to summon Dr. P.N. Verma and the technician of Laboratory for cross-examination. The District Forum asked the applicant to deposit the necessary amount to call the aforesaid persons. The applicant declined to do so. By order dated 22.2.94, the application for summoning the aforesaid persons for cross-examination was rejected. Against the said interlocutory order the applicant filed Appeal No. 129 of 1994. The appeal came up for hearing before this Commission on 18.8.94. Appellant failed to appear. The learned Counsel for the respondent stated that the complaint itself had been decided by the District Forum on 21.7.94. The appeal being against interlocutory order and the main complaint having been dismissed, the appeal was dismissed both on account of non-appearance of the appellant as well as on the ground that it was rendered infructuous. Thereafter the present prayer re-calling the order dated 18.8.94 was made by the appellant.

2. EXCEPT on 9.9.94 the appellant has not appeared on the various dates fixed in the application for restoration namely 26.9.94, 17.10.94, 31.10.94, 5.1.95, 27.1.95, 13.2.95 and 23.2.95, 14.6.95 and today. The Counsel for the respondent appeared on the last date of hearing as well as today. We have gone through the relevant provisions of the C.P. Act and the rules framed thereunder. There is no specific provision as to who has to pay the expenses of the witnesses to be called for cross-examination. It is only fair and reasonable that in the first instance the party at whose request a witness is summoned for cross-examination unless he happens to be the opposite party should bear the expenses. These expenses can be taken care of while passing the final order of the District Forum required no interference. What is more the main complaint appears to have been dismissed for default on 21.7.94 and till date no application for restoration thereof nor an appeal against the order of dismissal has been filed. For these reasons the application dated 22.8.94 is dismissed. Both the parties be informed. Application dismissed. _____