

**(2001) 03 NCDRC CK 0012**

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**

**Case No:** None

TAPAN KUMAR CHAKRABORTY,  
ALLAHABAD BANK

APPELLANT

Vs

RAM BINAY THAKUR

RESPONDENT

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**Date of Decision:** March 16, 2001

**Citation:** 2001 2 CPJ 321

**Hon'ble Judges:** S.C.Datta , S.Majumder , D.Karformas J.

**Final Decision:** Appeal allowed

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**Judgement**

1. THE complainant has brought this action against the opposite party, viz. Allahabad Bank alleging deficiency in service on the latter's part in not collecting the amount covered by cheque presented to it. THE Forum held that the Bank was guilty of deficiency in service and accordingly directed it to pay the compensation of Rs. 3,000/- to the complainant together with cost of Rs. 400/-.

2. FEELING aggrieved thereby the Bank has preferred this appeal.

Briefly stated the fact of the case is that the complainant presented a cheque for the sum of Rs. 5,000/- drawn upon Bank of Baroda, Alipore, Gaya for collection of the amount and crediting the same in his account maintained with the Bank at Burrabagar Branch at Calcutta. The said cheque lapsed after the expiry of this 6 months from the date of issue and as such the amount covered by the cheque could not be credited to the account of the complainant. According to the complainant this amounted to deficiency in service.

The opposite party contested the case by filing a written statement wherein the plea of non-joinder of necessary parties has been taken. The case of the opposite party is that the said cheque was sent to their branch at Gaya, Bihar for collection but they returned the cheque on the ground that they were not a member of local clearing house. The said branch at Gaya, Bihar requested the opposite party to collect the proceeds of the cheque directly from the Bank of Baroda, Alipore, Gaya Branch. Thereafter they sent the said cheque to the Bank of Baroda, Alipore, Gaya Branch for collection. Several reminders followed. Ultimately the cheque was returned by the said Bank on the ground that the words and figures in cheque differed. Accordingly the opposite party submits that there was no deficiency in service on their part.

3. IT is not disputed that the cheque was received by the opposite party on 17.8.1995 and it was sent to their branch at Gaya, Bihar for collection of the proceeds of the cheque. On 24.8.1995 their branch at Gaya expressed their inability to credit the amount and requested the opposite party to send the said cheque directly to the Bank of Baroda, Gaya Branch. The opposite party forwarded the said cheque to Bank of Baroda, Gaya on 1.9.1995 and thereafter sent several reminders. Ultimately, the drawee Bank, viz. Bank of Baroda Gaya returned the cheque unpaid on the ground that the words and figures in cheque differed. In view of the circumstances, the learned Counsel appearing for the appellant submits that the appellant cannot be said to be responsible. In the meantime, the validity period of the cheque expired. The complainant did not contact the opposite party to know the fate of the cheque. This was also noticed by the Forum. Since the words and figures in the cheque did not tally, the Bank of Baroda, Gaya Branch returned it to the present appellant. So in our opinion, the Forum was not justified in holding, the present appellant responsible. IT ought to have dismissed the claim on the ground that there was no deficiency in service on the part of the Bank.

The learned Counsel for the appellant submits that the case will also fail for non-joinder of necessary parties. According to him the Bank of Baroda, Gaya Branch ought to have been impleaded as a party to this proceeding. He submits that the said Bank detained the cheque for long and ultimately after issue of several reminders returned the cheque on the ground that words and figures did not tally. Since we find that there is no deficiency in service on the part of the Bank we think that the Forum was not justified in allowing the case.

4. FOR the reasons aforesaid the appeal be allowed ex-parte and the judgment of the FORum is set aside. Appeal allowed.