

(2004) 07 NCDRC CK 0107

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

H/CAPT. JAGDISH CHANDER

APPELLANT

Vs

EDGE IMMIGRATION COMPANY

RESPONDENT

Date of Decision: July 19, 2004

Citation: 2004 3 CLT 482 : 2004 4 CPJ 178

Hon'ble Judges: K.K.Srivastava , MajGenS.P.Kapoor , Devinderjit Dhatt J.

Final Decision: Application disposed of

Judgement

1. THIS is an application seeking condonation of delay of 73 days in filing the appeal against order dated 9.1.2004 passed by District Consumer Disputes Redressal Forum-I, U.T., Chandigarh [for short hereinafter referred to as the District Forum] in Complaint Case No. 720 of 2003-H/Capt. Jagdish Chander v. Edge Immigration Company, Chandigarh.

2. THE appellant/complainant conducted the proceedings before the District Forum in person. THE complaint was dismissed vide order dated 9.1.2004 and a certified copy of the judgment was prepared and signed on 17.2.2004. It has been contended by the learned Counsel for the appellant that the appellant collected the copy of the judgment on the date it was prepared, which in the instant case was 17.2.2004. Taking this date to be the date of knowledge of the order, the appeal was to be filed up to 18.3.2004. THE appeal was actually filed on 22.4.2004, which is delayed by 34 days and not 73 days. It appears that 73 days have been calculated by treating the date of the judgment as the starting point of limitation because in that case, the date of the judgment would be 9.1.2004, which would give period of 30 days of limitation up to 8.2.2004. THE delay would then start running from 9.2.2004. 21 days

in February, 2004, 31 days of March, 2004 and 21 days in April are the days of delay, which on adding up, would come to 73 days.

Under the provisions of the Consumer Protection Act, 1986 [for short hereinafter referred to as the C.P. Act, and under Rule 4 Sub-rule (10) of the Chandigarh Consumer Protection Rules, 1984, the order of the District Forum is to be communicated to the parties free of charge. In the instant case, the copy of the order was prepared on 17.2.2004 and, therefore, the starting point of limitation would be 17.2.2004 and not 9.1.2004. The appellant has due to misapprehension wrongly calculated the delay as 73 days.

So far as the delay of 34 days is concerned, it has been contended that the appellant was under wrong impression that the appeal is to be filed within a period of 90 days. However, on perusal of Section 15 of the C.P. Act, the appellant/complainant learnt about the period of limitation being of 30 days. This mistake on the part of the complainant appears to be genuine.

3. LOOKING to the facts and circumstances mentioned in the application seeking condonation of delay, we are satisfied that the appellant was prevented by sufficient cause from filing the appeal within the prescribed period of limitation. Their delay in filing the appeal is condoned. Let notice of appeal be issued to the respondent for 12.8.2004 and record of complaint case be requisitioned from the District Forum-I, U.T., Chandigarh in triplicate for the date fixed. Copies of this order be sent to the parties free of charge. Application disposed of.