

(2003) 10 NCDRC CK 0046

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

Javitri Devi

APPELLANT

Vs

Manager, Syndicate Bank

RESPONDENT

Date of Decision: Oct. 14, 2003

Citation: 2004 2 CPC 566 : 2004 3 CPJ 118

Hon'ble Judges: Lokeshwar Prasad , Mahesh Chandra J.

Final Decision: Petition disposed of

Judgement

1. THE office has wrongly registered the present petition as an appeal. THE same be registered as a petition under Section 17(1)(b) of the Consumer Protection Act, 1986 (hereinafter referred to as "the Act").

2. THE present petition, filed by the petitioner, is directed against order dated 8.9.1999, passed by District Forum-II, Udyog Sadan Institutional Area, Mehrauli, New Delhi, in Complaint Case No. 2256/97-entitled Smt. Javitri Devi v. THE Manager, Syndicate Bank, Bhagwan Dass Road, New Delhi and Another.

The facts, relevant for the disposal of the present petition, lie in a narrow compass. The petitioner Smt. Javitri Devi had filed a complaint under Section 12 of the Act before the District Forum alleging deficiency in service on the part of the respondent Bank. That complaint, filed by the petitioner, was dismissed in default by the District Forum. Thereafter the petitioner had filed an application for the restoration of that complaint. The learned District Forum vide impugned order has dismissed that application, filed by the petitioner, for restoring the complaint.

Feeling aggrieved, the petitioner has filed the present petition under Section 17(1)(b) of the Act. A notice of the petition was issued to the respondent who has entered appearance through its Advocate and has filed a reply to the above mentioned petition.

3. IN so far as the present petition, filed by the petitioner is concerned we have carefully gone through the records of the District Forum, which we have summoned, for our perusal. On a perusal of the impugned order and the records received from the District Forum, it is apparent that the application, filed by the petitioner, for restoring the complaint, dismissed in default, was dismissed by the District Forum vide impugned order on the ground that the petitioner did not submit any proof with regard to his illness on 24.2.1999. On record there is a certificate dated 25.2.1999, issued by a Registered Medical Practitioner (Dr. R.G. Sharma) certifying the illness of the A/Rep. of the petitioner Sh. Pyare Lal and advising absence from duty on 24.2.1999. IN the presence of the above fact the correctness of which is not disputed even by the learned Counsel for the respondent before us, the order being impugned in the present proceedings cannot sustain the test of judicial scrutiny. Therefore, the present petition, filed by the petitioner is allowed and the impugned order, passed by the District Forum, is hereby set aside. The complaint dismissed in default by the learned District Forum, is directed to be restored to its original number. The parties are directed to appear before the concerned District Forum for further proceedings on 2.12.2003 at 11.30 a.m. As the case is an old pending case, the District Forum shall dispose of the complaint expeditiously preferably within six months from the date of first appearance of the parties.

The present petition, filed by the petitioner, stands disposed of in above terms.

4. A copy of this order, as per statutory requirements, be forwarded to the parties free of charge and also to the concerned District Forum. The record received from the District Forum be also returned to the concerned District Forum and thereafter the file be consigned to Record Room. Petition disposed of.