

**(1994) 04 NCDRC CK 0041**

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**

**Case No:** None

PROPRIETRIX, ANCIENT PHARMA

APPELLANT

Vs

W. PANNERSELVAM

RESPONDENT

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**Date of Decision:** April 25, 1994

**Citation:** 1996 1 CPJ 101

**Hon'ble Judges:** S.A.Kader , R.N.Manickam J.

**Final Decision:** Appeal allowed

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**Judgement**

1. THE appeal arises out of the order of the District Consumer Disputes Redressal Forum, Madurai, dated 7.12.93 in Q.P. No. 163/92. THE 1st Opposite Party is the Appellant.

2. THE Complainant was employed by the 1st Opposite Party and his services were terminated. His claim relates to the Provident Fund amount recovered from his salary. THE Opposite Parties contended that the Complainant is not a consumer. THE District Forum rejected the contentions of the Opposite Parties and directed them to pay to the Complainant compensation in the sum of Rs. 3,000/- and costs of Rs. 150/-. It is this order that is challenged in the appeal by the 1st Opposite Party.

The preliminary objection is raised to the maintainability of the complaint on the ground that the Complainant is not a consumer within the meaning of Section 2(1)(d)(ii) of the Consumer Protection Act. It is urged by the learned Counsel for the Appellant that the Complainant, from whose salary a portion is deducted towards Provident Fund is not a consumer within the meaning of the Act and the remedy is to file a suit before a competent Court of Civil Jurisdiction, relying his plea on the

decision of the National Commission in "Central Bank of India v. Dil Bahadur Singh" III (1993) CPJ 319 (NC). The National Commission has observed as follows : "The claim of the Respondent/Complainant was about non-payment of provident fund to him. Of course, the provident fund cannot be retained by the employer, but for that matter the proper remedy for the claimant was to approach a Civil Court. Payment of Provident Fund can by no stretch of imagination be said to be "rendering of service" under the Act." In view of this decision of the National Commission, we are constrained to hold that the complaint is not maintainable as the Complainant is not a consumer.

In the result, the appeal is allowed, the order of the District Forum is set aside and the complaint is dismissed, but without costs. Appeal allowed.