

**(2010) 07 NCDRC CK 0016**

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**

**Case No:** None

SURESH KUMAR

APPELLANT

Vs

State Bank Of Bikaner And Jaipur  
Branch Af

RESPONDENT

**Date of Decision:** July 19, 2010

**Citation:** 2010 4 CPJ 72

**Hon'ble Judges:** R.K.Batta , Vinay Kumar J.

**Advocate:** Sumeet Kaul , Reetesh Singh , Vishnu Mehra

**Judgement**

1. THE revision petitioner and Counsel for Respondents No. 1 and No. 3 are present. No one has appeared for Respondent Nos. 2 and 4. Heard the parties.

2. THIS revision petition is against order dated 29.5.2006 passed by State Consumer Disputes Redressal Commission, Rajasthan. The State Commission has dismissed the appeal against the order of the District Forum, observing further that the Respondent-Bank being a nationalized Bank is expected to pay the draft amount with demanding any indemnity bond from the present revision petitioner as, after efflux of so much of time, the need for indemnity bond has ceased to exist. The parties to the appeal have been asked to bear their own costs.

3. THE District Forum had dismissed the complaint. The appeal filed by complainant was dismissed since the State Commission did not find any deficiency as the complainant had not furnished indemnity bond for issuing fresh draft/payment of draft amount. Against the above order, the revision petitioner has sought the following reliefs from this Commission:

(a) Allow the Revision Petition filed by petitioner and set aside the impugned order or judgment dated 29.5.2006 passed by Hon"ble State Consumer Disputes Redressal Commission, Rajasthan in Appeal No. 751 of 1997. (b) Award interest as per the RBI rate on draft amount of Rs. 1,500 from 25.9.1993 till the date of payment. (c) Award compensation for the mental agony and harassment caused to the petitioner. (d) Award compensation towards loss incurred for non-allotment of Reliance Petroleum Limited Share. (e) Pass such other or further orders as this Hon"ble Commission may deem fit and proper in the facts and circumstances of the present case.

4. IT is observed that, Respondent No. 4 is the courier agency through whom the Bank draft was sent by Respondent No. 1 to Respondent No. 2. The receipt of this draft by Respondent No. 2 is admitted. The revision petitioner, therefore, agrees that he has no cause of action against Respondent No. 4

5. FROM the record of the case, we find that no case is made out before the State Commission for any relief against respondent No. 3 i.e. Reliance Consultancy Service Ltd. Even the legal notice issued by the revision petitioner on 22.2.1996 was only to the Banks, who are present Respondents No. 1 and No. 2. No notice was sent to Respondent No. 3 and No. 4. The correspondence of the revision petitioner with Respondent No. 3 also shows that latter could not take any action on their end as the application for allotment of shares had never reached them.

6. ADMITTEDLY, the draft in question was issued by Respondent No. 1 and the same was sent through courier, Respondent No. 4 to Respondent No. 2 for forwarding the

same along with the application for issue of 200 shares to Respondent No. 3. The said draft was lost by Respondent No. 2. The Chief Manager of Respondent No. 2 wrote to Respondent No. 1 that the draft is reported to be lost and non-payment certificate be issued for the same if it is outstanding in its records. The information was sought to settle the complaint of the complainant. The complainant was also advised to apply for duplicate draft from Respondent No. 1. Accordingly, the complainant had applied for duplicate draft so that he could receive back the amount of the draft. The Respondent Banks insisted on Indemnity Bond. The complainant sent notice to Respondent Nos. 1 and 2 seeking refund of the draft amount with interest and cost. The complaint was filed in the year 1996.

7. THE draft was lost at the level of the Bank which, itself, amounts to deficiency in service. The complainant was not at fault. Keeping in view the amount of draft and the fact that the draft was lost by the Bank, the Bank should not have insisted on indemnity bond and should have found out ways and means to refund the amount of the draft. In fact, rather than contesting the matter, Respondent Nos. 1 and 2 should have at least come forward for the refund of the said amount, but it appears that the Respondents contested the case on the ground that the payment could not be made since Indemnity Bond had not been furnished. Therefore, the complainant would be entitled not only to refund of the draft amount, but also interest thereon from the date of issue of demand draft till the payment of draft amount of Rs. 1,500 is made and also the cost of litigation. Accordingly, the revision is allowed to the extent that Respondent Nos. 1 and 2 shall pay in addition to the sum of Rs. 1,500 interest @ 9% thereon from the date of filing of the complaint till the said amount is paid with consolidated litigation cost of Rs. 5,000 in all the Forums. Revision allowed.