

IN THE STATE COMMISSION: DELHI

(Constituted under section 9 of the Consumer Protection Act, 1986)

Date of Hearing: 09.07.2020

Date of Decision: 15.07.2020

First Appeal No. 374/2016

IN THE MATTER OF

SH. SURAT SINGH YADAV

S/o Sh. B.D. Yadav

R/o H.No. 42, Sec-5

Pushp Vihar, New Delhi

...Appellant

VERSUS

BRANCH MANAGER

Standard Chartered Bank

M-1, South Extn, Part-I

New Delhi

BRANCH MANAGER

Vijaya Bank

D-86, Malviya Nagar

New Delhi

....Respondent



HON'BLE SMT. JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)

HON'BLE SH. ANIL SRIVASTAVA, (MEMBER)

1. Whether reporters of local newspaper be allowed to see the judgment? Yes
2. To be referred to the reporter or not? Yes

Present: Ms. Sarika Jaitley Kochar, Counsel for the appellant
Sh. Rahul Sharma, Counsel for the respondent number 1

Sh. Anil Kumar Singh, Counsel for the respondent
number 2

ANIL SRIVASTAVA, MEMBER

JUDGEMENT

1. Aggrieved by the orders dated 03.05.2016 passed by the District Consumer Disputes Redressal Forum II, New Delhi in C-98/2011 in the matter of Surat Singh Yadav versus Standard Chartered Bank and Vijaya Bank dismissing the complaint finding no deficiency on the part of the Banks, the complainant before the District Forum Sh. Surat Singh Yadav, has preferred an appeal before this Commission for short appellant under Section 15 of the Consumer Protection Act 1986, the Act, against the Standard Chartered Bank and Vijaya Bank, hereinafter referred to as respondent no. 1 and 2 respectively, alleging deficiency of service on the part of the Bank and praying for setting aside the order impugned here and for the relief claimed before the Forum below.
2. Facts of the case necessary for the adjudication of the appeal are these.
3. The appellant was having an Account No. 52810194968 with Standard Chartered Bank i.e. respondent no. 1 with a balance of Rs. 18,732/- during the period from 02.09.2010 to 02.12.2010. Mr. Nitin Kumar Son of the appellant was studying in Class B. Tech IIIrd Year from Anupama College of Engineering, Bilaspur, Gurgaon, Haryana. The appellant had issued a cheque no. 038247 dated 10.11.2010 amounting to Rs. 15,000/- in favour of Anupama College of Engineering. The said College had deposited the said cheque in their bank account at Vijaya Bank Branch, B-86, Malviya Nagar, New Delhi on 15.11.2010 which was sent for encashment to the bank of appellant i.e. respondent no. 1. However the said cheque was returned with remarks "Funds Insufficient" vide cheque returning memo dated 15.11.2010, whereas the respondent no. 1 released/remitted the amount of cheque to "Anupama College" instead of "Anupama College". Photocopy of return memo is already placed on record. Later the said cheque returning memo dated 15.11.2010 had been handed over to Anupama College of Engineering.
4. The cheque having been returned particularly on the ground of insufficient fund the appellant took up the matter with the respondents. The gravity of the matter was found even graver when a notice displayed



in the college notifying that the fee in respect of the son of the appellant remained undeposited, the fact which are not borne out from the chain of events. This led to loss of reputation. Consequently a legal notice was issued to the Bank claiming compensation of Rs. 20 Lakhs which compensation not having been paid, a complaint was filed before the District Forum. The complaint so filed was dismissed on the ground that there was no deficiency on the part of the respondent, observing that if there is deficiency, it is on the part of the college. The dismissal of the complaint led to filing of this appeal on the ground that the impugned order is contrary to the facts and law and against the material available on record. Secondly, the Id. District Forum has failed to appreciate the fact that the act and conduct of the respondents clearly amounts to deficiency in service and unfair trade practice on the part of respondents. Third the Id. District Forum has failed to appreciate that due to the act and misconduct of respondents, the appellant suffered irreparable loss besides mental and physical torture, harassment, pain and agony and has also suffered monetary loss.

5. Respondents were noticed and in response thereto both the respondents have filed separate replies, resisting the appeal, and praying for its dismissal, stating that there exists no infirmity in the order passed. The respondent number 1 submits among others, that no document was filed to substantiate the allegation of deficiency of service on their part. On merit they have stated that the cheque bearing no. 38247 dated 10.11.2010 was received by them in clearing on November 13, 2010 and the same was duly paid by the Bank on 13.11.2010. The said fact is very much evident from the statement of the account bearing no. 528-1-079496-8 for the month of November, 2010. The cheque in issue was duly honoured. The relevant portion of the transaction is as under:-



Application Date	Batch ID	Total Count	Total Amount	Accepted Count	Rejected Count	Rejected Amount	Batch Status
20101112	30519	1	15,000	15,000	0	0	Closed

6. The respondent Number 2 also averred that the statement of account clearly shows that the amount of Rs. 15,000/- vide cheque no. 038247 was debited from the appellant account on 13.11.2010 and the same was credited in the name of Anupama College of Engineering. Hence, there is no deficiency in service on the part of the respondents. In

fact, the deficiency in service if any was on the part of the college, who displayed the name of the appellant's son on the notice board.

7. This matter was listed before this Commission for final hearing on 09.07.2020 when the counsel for both sides appeared and advanced their arguments, the appellant for setting aside the impugned order and for the compensation of Rs. 20 Lakh as prayed for before the District Forum and the respondents for dismissal of the appeal and for upholding of the order impugned here, no case for deficiency of service as against them having been established. We have perused the records of the case and given thoughtful consideration to the rival contentions advanced before us.

8. Short question for adjudication in this appeal is whether there exists any infirmity in the order impugned herein, dismissing the complaint, no deficiency having been found as against the respondents.

9. The respondents Bank are under an obligation to honour the check if the details contained in the cheque are correct and amount available in the account is sufficient to clear the instrument. On perusal of the records of the case it is noticed that there was slackness, if any, on the part of the college but in no case deficiency cannot be alleged or established as against the respondent banks. Principles of deficiency have been laid down by the State Commission of Chhattisgarh in the matter of Lakhvinder Singh Bhambra versus Cholamandalam M/s General Insurance Co. Ltd. & Anr as reported in II [2012] CPJ 109 (Chhat) holding as under:-

"Deficiency cannot be alleged without attributing fault, imperfection, shortcoming or inadequacy in quality, nature and manner of performance which is required to be performed by person in pursuance of contract or otherwise in relation to any service".

10. The principles of deficiency as set out in the preceding paragraph, on perusal, does not seem to establish deficiency on the part of the Bank in the given case.

11. The allegation of deficiency of service could have been alleged or established against the college authorities but they having not been impleaded in the array of parties no adjudication qua them could be rendered.



12. Having regard to the discussion done we are of the considered view that there exists no infirmity in the order impugned here. Ordered accordingly, leaving the parties to bear the cost.
13. A copy of this order be forwarded to the parties to the case free of cost as is statutorily required. A copy of this order be forwarded to the District Forum for information.
14. File be consigned to records.

—sd—

(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT

Delhi State Consumer Disputes Redressal Commission

—sd—
(ANIL SRIVASTAVA)
MEMBER

Pronounced today,
15.07.2020.

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