

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7195 OF 2013
(Arising out of SLP (C) No. 20742 of 2012)

BURRI ACHUTA RAMA RAO ... APPELLANT
VS.
DEPARTMENT OF POSTS, INDIA & ORS ... RESPONDENTS

O R D E R

Leave granted.

2. The appellant is aggrieved by an order dated 09.02.2011 of National Consumer Disputes Redressal Commission, New Delhi (in short 'the Commission') in Revision Petition No. 741 of 2006, wherein the rate of interest was reduced from 12% to 6% from the date of maturity till the date of payment on the ground that it is excessive and the award of rate of interest by the District Consumer Disputes Redressal Forum, (in short 'District Forum') Kakinada in Dispute No. 67 of 1998 was modified on the amount directed to be paid to the appellant herein and this is challenged in this appeal urging various grounds.

3. The legal contention urged on behalf of the appellant is that there is no scope for the Commission in reducing the rate of interest by partly allowing the Revision Petition by the National Consumer Commission without assigning any valid and cogent reasons. It is further contended that the Commission has not noticed the relevant fact that the finding recorded by the District Forum is affirmed by the State Commission of Andhra Pradesh in appeal Nos. 35 and 36 of 2005 dated 24.11.2005 holding that the order passed by the District Forum for payment of the matured amount of 6 National Savings Certificates (NSCs) obtained from the respondents and non-payment of the said amount to the appellant despite representations made for issuance of the duplicate NSCs amounts to deficiency of service on the part of the respondents. Therefore, the District Forum directed them to return the matured amount covered in the NSCs with 12% interest though it was contended that the appellant is entitled for 18% as per the judgment of this Court. The same has been interfered with by the Commission which has caused financial loss to the appellant. Therefore, he has prayed for allowing this appeal contending that the same is contrary to law.

4. The averments made in the appeal have been opposed by filing a detailed counter affidavit sworn by Respondent No. 1, Vennam Upender who is working as Director, Postal Services, justifying the impugned order passed by the Commission in exercise of its discretionary power. Therefore, he has submitted that the appellant is not entitled to the relief awarded.

5. It is also contended by Mr. Rakesh Kumar Khanna, the learned Additional Solicitor General that the reason assigned in the complaint filed in the District Forum is that he had pleaded for issuance of NSCs and not that the same were lost when he was traveling from S.Rayavaram to S.Dharmavaram though the said NSCs were pledged with the State Bank of India for having raised a loan. Therefore, the reason assigned for issuance of duplicate NSCs for facilitating to get the amount covered in the same from the respondent is a mala fide intention on the part of the appellant as he had tried to obtain another set of duplicate NSCs even though it was actually available in the custody of the State Bank of India. The reason assigned by the appellant in the application for seeking issuance of duplicate NSCs is the criminal intention on the part of the appellant to cheat the

Department. The responsibility lies on the Department to see under what circumstances such attempts are made by on the part of the customers to get duplicate set of Certificates for illegal gains had to tactfully dealt with. Therefore, the respondents contended that the delay in payment of the matured value is attributable to the tactics of the appellant, but, not the alleged deficiency of service as contended by the appellant.

6. The pleas taken by the Director of Postal Department and the learned Additional Solicitor General cannot be accepted by this Court in these proceedings for the simple reason that the finding of fact recorded by both the District Forum and the appellate authority, the State Consumer Disputes Redressal Commission of Andhra Pradesh, on the basis of the pleadings of the parties and on enquiry conducted by it and on appreciation of the pleadings and evidence on record, the categorical finding of fact is recorded by the District Consumer Forum and held that there is deficiency of service on the part of the respondents in not paying the amount covered with the NSCs to the appellant after their maturity. Therefore, on the issue of the delay in payment of the amount covered in the NSCs of Rs.2,00,000/- from 1.1.1996 till 20.4.2006, is on the respondents. Therefore, the finding of fact holding that there is deficiency of service on the part of the respondents has been concurred with by the appellate authority in the appeals filed by the respondents. In view of the aforesaid finding and reason of the District Forum, which is concurred with by both the appellate authority as well as the revisional authority, there is no justification on the part of the National Commission to reduce the rate of interest from 12% to 6% on the amount directed to be paid to the appellant by the respondents in the order passed by the District Forum.

7. The Commission has erroneously accepted the case of the respondents that the award of interest of 12% on the amount directed to be paid by the respondents to the appellant is on the higher side and that the same is excessive is wholly untenable in law for the reason that the Commission has failed to take into consideration the fact that the respondents have taken more than a decade from the date of maturity of the NSCs to pay the amount to the appellant. Therefore, the District Forum has rightly exercised its discretionary power and awarded 12% interest on the amount payable to the appellant by the respondents. The same cannot be termed as either arbitrary, unreasonable or being on the higher side or excessive for the reason that the appellant has been unreasonably deprived from utilizing the matured amount by the respondents inaction on untenable grounds.

8. The aforesaid relevant fact is taken note of by the District Forum and it has rightly levied interest of 12% on the matured amount payable to the appellant, after recording the finding of fact holding that non payment of the amount covered under the NSCs for a period of 10 years by the respondents to the appellant certainly amounts to deficiency of service on their part. Therefore, the impugned order in reducing the rate of interest is liable to be set aside. Accordingly, we set aside the same and restore the order of the District Forum regarding the rate of interest awarded at 12% on the matured amount covered in NSCs and direct the respondents to pay the same within four weeks from the date of receipt of a copy of this order.

The appeal is accordingly allowed.

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.....J.
[G.S. SINGHVI]

.....
.....J.
(V. GOPALA GOWDA]

New Delhi,
August 23, 2013.
ITEM NO.50

COURT NO.2

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).20742/2012

(From the judgement and order dated 09/02/2011 in RP No.741/2006
of The NATIONAL CONSUMERS DISPUTES REDRESSAL COMMISSION, NEW DELHI)

BURRI ACHUTA RAMA RAO Petitioner(s)
VERSUS
DEPARTMENT OF POSTS, INDIA & ORS. Respondent(s)
(With appln(s) for c/delay in filing SLP and office report)

Date: 23/08/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Petitioner(s) Mr. C. Murali Krishna, Adv.
Mr. Parmanand Singh, Adv.
Mr. Rabin Majumder, Adv.

For Respondent(s) Mr. Rakesh Kr. Khanna, ASG
Ms. Kiran Bhardwaj, Adv.
Mr. Virender Singh, Adv.
Ms. Supreeta Misha Jha, Adv.
Ms. Kiran Bhardwaj, Adv.
Mr. Anirudh Tanwar, Adv.
Mr. D.S. Mahra, Adv.

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The appeal is allowed.

[Usha Bhardwaj]
A.R-cum-P.S.

[Phoolan Wati Arora]
Court Master

Signed order is placed on the file.

