

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.9463 OF 2010

Appellant(s) Kamal Deo Thakur .. Appel
Respondent(s) Post Master General & Ors. .. Respo
Versus

O R D E R

Consumers 1. This appeal has arisen from a judgment and order dated 15th May, 2009 passed by the National Dispute Redressal Commission, New Delhi whereby Revision Petition No.3660 of 2008 filed by the appellant herein has been dismissed.

2. The appellant appears to have secured a Postal Life Insurance Policy offered by the Postal Department of the Government of India. While the policy was still current the appellant appears to have approached the postal authorities for pre-mature encashment of the dues payable under the same. Certain delay in the payment of the amount appears to have led the appellant to file

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RANI BHARDWAJ
Date: 2016.04.06
17:06:21 IST
Reason:

Consumer Complaint No.29/94 before the District Consumer

Bettiah, Disputes Redressal Forum, West Champaran at Bihar. The Consumer Forum by an order dated 13.1.1996

2
directed the respondent the Postal Department to make payment of the entire remaining amount due under the Policy to the complainant within one month with Rs.250/-

towards litigation charges. That order having attained finality, the appellant filed Execution Case No.91/97 before the Consumer Forum for enforcement of the direction. It is common ground that in the execution proceedings the respondent Department offered to the appellant a cheque for Rs.16,682/- besides a cheque for Rs.250/- representing the amount payable under the policy and the cost awarded by the Forum. The appellant appears to have declined to accept the cheque for Rs.16,682/- and filed two other cases being Execution Case No.15/99 and Execution Case No.16/99 arising out of the order passed by the District Consumer Forum. Not only that the appellant appears to have filed Revision Petition No.2245 of 2003 before the National Consumer Disputes Redressal Commission in which the National Commission appears to have directed payment of 10% interest on the amount payable to the appellant. Yet another Execution Case No.1 of 2005 was then filed by the appellant for payment of the amount due to him. It was in those proceedings that the Department issued a cheque for Rs.14,763/- towards interest at the rate of 10% on the amount payable to the appellant besides a sum of Rs.2,000/- as cost of litigation awarded by the National Commission. By an order dated 27th April, 2006 passed by the District Forum the respondent Department was directed to make full and final payment to the appellant with interest as directed. That order was challenged by the appellant in Appeal No.573 of 2006 before the State Commission who after hearing the parties set aside the same and directed the learned D.C.F. to first determine the amount payable to the appellant. Instead of filing a miscellaneous case for adjudication before the District Forum the appellant preferred an Execution Petition before the National Commission, New Delhi, who after hearing both the parties

affirmed the order passed by the State Commission.

The

National Commission by an order dated 30.11.2004 directed

as under:

"Shri Nischal has handed over two cheques for Rs.14,763/- and Rs.2,000/- on account to the petitioner. Petitioner states that further, amount of Rs.1,51,876/- is due from respondents. He places on record break up of this amount and copy thereof has also been supplied by him to Sri Nischal. List on 14th February, 2005 for arguments."

3. Revision Petition No.2245 of 2003 was finally disposed of by the National Commission on 14 th February, 2005 with the following direction:

"Revision Petition was disposed of by the
4

order dated 03.03.2004 allowing the respondents to make payment of pre-mature amount with upto date interest @ 10% per annum within four weeks as also cost of Rs.2,000/-. Grievance of the petitioner concerning execution of this order can be gone into by the District Forum and not this commission. Petitioner points out that a member has since been appointed in District Forum."

4. It is evident from the above that the appellant's grievance concerning execution of the order passed in his favour was left open to be determined by the District Forum. The District Forum accordingly appears to have passed an order dated 27.04.2006 and issued a Certificate to the Collector for the recovery of an amount of Rs.1,51,876/- for payment to the appellant. That order was then challenged by the respondent Department in appeal before the State Commission. The State Commission has by an order dated 29.05.2008 set aside the order passed by the District Forum primarily on the ground that the District Forum had not determined the actual amount payable to the appellant. In the operative portion the State Commission observed:

"Hence prayer of Appellant/Revisionists is allowed and impugned order dated 27.04.2006 is set aside. Learned D.C.F. will first decide the claim through a miscellaneous case."

5. Aggrieved by the order the appellant appears to have filed a Revision which has been dismissed by the National Commission. The present appeal assails that order of the National Commission.

6. The appellant has not appeared to argue this appeal. We have with the help of Mr. R. Balasubramaniam, counsel for respondent, gone through the order passed by the National Commission and those passed by the State Commission and the District Forum. The State Commission has set aside the certificate and the direction issued by the District Consumer Forum for payment of Rs.1,51,876/- primarily on the ground that the District Forum has not properly determined the actual amount payable to the appellant. It is also clear from a reading of the operative portion of the order extracted above that the District Forum has been directed to go into that question. The National Commission has, in our opinion, rightly declined to interfere with the said order. In terms of the orders passed by the State Commission and the National Commission, the question as to what if any is the amount payable to the appellant over and above what is already paid to him will be gone into by District Forum. The appellant has filed multiple proceedings some of which may still be pending before the District Forum. We are, therefore, of the view that it is appropriate for the appellant to agitate the question of actual amount

due to him before the District Forum. We make it clear that we did not have the advantage of hearing the appellant as he is not present today. Although we have tried to recapitulate the facts from the record and taken

a view that will reduce any further litigation in the matter and help the appellant to agitate his grievances more conveniently before the District Forum, yet since this order has been passed ex-parte, we hereby reserve liberty to the appellant to seek recall of this order, should be advised to do so.

7. With the above observation, the appeal is disposed of. No costs.

.....CJI.
[T.S. THAKUR]

.....J.
[R. BANUMATHI]

NEW DELHI,
FEBRUARY 11, 2016.

7

ITEM NO.101 COURT NO.1 SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.9463/2010

KAMAL DEO THAKUR Appellant(s)

VERSUS

POST MASTER GENERAL AND ORS. Respondent(s)

Date : 11/02/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s) Petitioner-in-person (NP)

For Respondent(s) Mr. R. Balasubramaniam, Adv.
Ms. Sadhna Sandhu, Adv.
Mr. Satya Siddiqui, Adv.
Mr. Sarfraz Siddiqui, Adv.
Mr. M. Kairati, Adv.
Mr. Mohan Prasad Gupta, Adv.
Mr. D. S. Mahra, Adv.

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

The appeal is disposed of in terms of the signed order.
No costs.

(USHA BHARDWAJ)

(VEENA KHERA)

AR-CUM-PS

COURT MASTER

Signed order is placed on the file.