

ARCHANA M. KAMATH
v.
CANARA BANK AND ANR.

FEBRUARY 6, 2003

[BRIJESH KUMAR AND DR. AR. LAKSHMANAN, JJ.]

Banks/Banking:

Bank—Charging Rs. 50 for issuance of MICR cheques—Customer challenging before consumer forums the action of the Bank as unilateral and without consent and against directives of RBI—District forum and State Commission holding against the Bank—But the National Commission holding in favour of the Bank—Held, introduction of MICR cheques facilitates the clearance of cheques and avoids unduly long time consuming process in cheque clearance—For such small charges necessitated due to general modernisation of Bank's functioning and services, the question of its being unilateral does not arise nor the question of consent of each customer—The relevant documents indicate that there was no instruction at all by RBI saying that the Banks would not be charging any amount for issuing MICR cheques to their customers or for better services rendered for clearance of cheques by introducing any modern and new methods—Order passed by National Commission setting aside the orders of District Forum and State Commission calls for no interference.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 14562-14563 of 1996.

From the Judgment and Order dated 17.5.1994 in RP 452/93 & 453/93 of the National Consumers Disputes Redressal Commission.

Mahesh Agarwal, Rishi Agarwal, Manu Krishnan and EC Agrawala, for the Appellant.

Mukul Rohtagi, ASG, Arpita Mahajan, Laksh Yadav for Ms. Bina Gupta, Pradeep Dewan, Praveena Gautam and Pramod B. Agarwala for the Respondent.

The following Order of the Court was delivered

A The appellant before us, having a current account with respondent No.1. Canara Bank, took exception to the charging by the Bank a sum of Rs. 50 for issuance of 50 leaves of MICR cheques. The main ground for the grievance was that this amount had not been charged earlier for issuance of cheque book, but the same has been introduced without any prior information and consent of the appellant. It amounted to unilateral action on the part of the respondent-Bank.

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C The appellant approached the Bombay Consumer Disputes Redressal Forum & Bombay Suburban District (in short 'the District Forum') with the aforesaid complaint. The District Forum allowed the petition preferred by the appellant, holding that the Bank was not justified in recovering the charges for supply of leaf of cheques as it could not be done unilaterally without the consent of the customer. It has also been observed by the District Forum that no data was provided by the Bank to indicate the cost it incurs in obtaining such cheque books. It was also found that such a charge as imposed by the Bank was detrimental to the interest of the customer. Ultimately, with such observations, a direction was issued by the District Forum to the Bank to refund the amount of Rs. 50 or other similar amounts, if charged, from the customer for supply of MICR cheques leaves.

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E The Bank, it appears, approached the Maharashtra State Consumer Disputes Redressal Commission, Bombay (in short 'the State Commission') in appeal. The State Commission found that there was a direction of the Reserve Bank of India (in short 'the R.B.I.') to the Banks providing that the Banks would not be charging for clearing of the cheques. The State Commission also repelled the argument seems to be advanced on behalf of the Bank that this charge of Rs. 50 was being recovered to meet the expenses in printing of the cheques so that the customers may not indiscriminately use the cheques. The appeal was dismissed and the order passed by the District Forum was upheld.

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G The Bank, aggrieved by the order passed by the State Commission in appeal, approached the National Consumer Disputes Redressal Commission, New Delhi (in short 'the National Commission'). The national Commission held that the charges which the Banks chose to levy, for providing their services by supply of MICR cheque, fell in the realm of pricing. It is on account of consideration for providing banking services. Hence it was not within the jurisdiction of the Forums to go into that question relating to pricing of such services.

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With the above observations and findings, the National Commission allowed the revision and set aside the orders passed by the District Forum and the State Commission. A

The appellant before us, namely, the customer, has urged that the National Commission is not right in holding that it relates to pricing of services rendered by the Bank. The arguments advanced before the District Forum and the State Commission have been reiterated before us. Much stress has been placed on the point that the charge has been unilateral, without consent and against the directives of the R.B.I. We are not impressed by the submission made on behalf of the appellant. The fact which cannot escape notice is that recently there has been a large scale change and improvement in the working and method and manner of functioning of various institutions, including Banks. Very many services, which were not available earlier, have been introduced with the aid of mechanical and technological devices. Introduction of computerisation has its own effect; one of which is introduction of MICR cheques. There is no denying of the fact, from either side, that it facilitates the clearance of the cheques and avoids unduly long time consuming process in cheque clearance, which are issued by the customers within the city or in any other part of the country. Therefore, to say that it was only for the facility of the Bank itself that the MICR was introduced, would not be correct nor the argument that it could not be permissible for the Bank to make up some amount of the cost incurred in introducing the new and modern infrastructure for improving its working. We also feel that for such small charges necessitated due general modernisation of its functioning and services, the question of it being unilateral, does not arise nor the question of consent of each customer. B
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So far the other point raised that the amount was being charged for MICR cheques against the directives of the R.B.I. also does not hold water. In this connection, learned counsel appearing for the respondent has drawn our attention to the letters addressed to the R.B.I., seeking clarification and the reply of the R.B.I. in response thereof. A perusal of the said documents only indicates that the instructions of the R.B.I. were that the processing charges of cheque, payable by the Banks to the R.B.I, were not to be passed on to the customers. Beyond that there was no instructions at all saying that the Banks would not be charging any amount for issuing MICR cheques to their customers or for the better services rendered for clearance of cheques by introducing any modern and new methods to undergo the whole process. There seems to be complete mis-reading of the letters issued in that regard F
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A by the R.B.I. That being the position, in our view, the order passed by the National Commission setting aside the orders passed by the District Forum and the State Commission calls for no interference.

We find no merit in the appeals. They are, accordingly, dismissed. There would, however, be no order as to costs.

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R.P.

Appeal dismissed.