

ARULMIGHU DHANDAYUDHAPANISWAMY THIRUKOIL,
PALANI, TAMIL NADU, THR. ITS JOINT COMMISSIONER

v.

THE DIRECTOR GENERAL OF POST OFFICES,
DEPARTMENT OF POSTS & ORS.

(Civil Appeal No. 4995 of 2006)

JULY 13, 2011

[P. SATHASIVAM AND A.K. PATNAIK, JJ.]

Consumer Protection Act, 1986 – s. 2(1)(g) – Deficiency in service – Deposit of huge amount by the appellant-temple for five years under the Post Office Time Deposit Scheme – Appellant informed by Post Master that the Scheme had been discontinued for investment by institutions, thus amount deposited by temple refunded without interest – Complaint filed by the appellant claiming interest on the ground of deficiency in service on part of the Post Master – Dismissed by the State Commission as also National Commission – On appeal held: In the light of the communication dated 01.12.1995 and in view of r. 17, failure to pay interest cannot be construed as a case of deficiency in service in terms of s. 2(1)(g) – The factual finding arrived at by the State and the National Commission that the Post Master was ignorant of any Notification and as such the appellant did not get any interest for the substantial amount are upheld and thus, the respondents cannot be fastened for deficiency in service in terms of law or contract – Post Office Savings Bank General Rules, 1981 – r. 17.

Appellant-Temple had deposited a huge sum of money amounting to Rs.1,40,64,300/- with the Post Master from 05.05.1995 to 16.08.1995 for a period of five years under the Post Office Time Deposit Scheme. The Post Master, Post Office accepted the said amount under the

A Scheme and issued the receipt for the same but later it was found that the Scheme had been discontinued for investment by institutions from 01.04.1995 and as such the amount deposited by the Temple was refunded without interest. The appellants filed complaint claiming
 B interest on the ground of deficiency in service on the part of the Post Master. The State Commission as also the National Commission dismissed the same. Therefore, the appellants filed the instant appeal.

C Dismissing the appeal, the Court

HELD: 1.1 Since the deposits in the case on hand relate to Post Office Time Deposit Account, Rule 17 of the Post Office Savings Bank General Rules, 1981 is squarely applicable. The reading of Rule 17 makes it clear that if
 D any Account is found to have been opened in contravention of any Rule, the relevant Head Savings Bank may, at any time, cause the account to be closed and the deposits made be refunded to the depositor without interest [Para 6] [50-F-G]

E 1.2 It is clear from the communication dated 01.12.1995 of the Post Master 3rd respondent that with effect from 01.04.1995 i.e. even prior to the deposits made by the appellant-Temple, investment by institutions under the Scheme was not permissible and in fact discontinued
 F from that date. The appellant-Temple is also an institution administered and under the control of the Hindu Religious and Charitable Endowments Department of the State. Vide the above said communication, the Post Master, Palani informed the appellant to close all those
 G accounts since the same was not permissible. The communication dated 01.12.1995 also shows that all such accounts should be closed and the amounts so deposited are to be refunded without interest. The deposit accounts have been caused to be closed and the
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amounts deposited have been returned to the depositors without interest. Though the appellant claimed interest and insisted for the same on the ground of deficiency in service on the part of the Post Master, Palani, in view of Rule 17, the respondents are justified in declining to pay interest for the deposited amount since the same was not permissible. In the light of Rule 17 of the Rules, it cannot be held that there was deficiency in service on the part of the respondents, 3rd respondent in particular. [Para 7] [52-C-G]

Postmaster Dargamitta, H.P.O., Nellore vs. Raja Prameeelamma (Ms.) (1998) 9 SCC 706 – held applicable.

1.3 It is true that when the appellant deposited a huge amount with the 3rd Respondent from 05.05.1995 to 16.08.1995 under the Scheme for a period of five years, it was but proper on the part of the Post Master to have taken a note of the correct Scheme applicable to the deposit. It was also possible for the Post Master to have ascertained from the records, could have applied the correct Scheme and if the appellant, being an institution, was not eligible to avail the Scheme and advised them properly. The request to this Court to direct the 3rd respondent to pay some reasonable amount for his lapse, inasmuch as such direction would go contrary to the Rules and payment of interest is prohibited for such Scheme in terms of Rule 17, cannot be accepted. A substantial amount had been kept with the 3rd Respondent till 03.01.1996 when the said amount was refunded without interest. In the light of the letter dated 01.12.1995 and in view of Rule 17 of the Rules, failure to pay interest cannot be construed as a case of deficiency in service in terms of Section 2(1)(g) of the Consumer Protection Act, 1986. Both the State and the National Commission have concluded that the 3rd Respondent was ignorant of any Notification and because of this

A ignorance the appellant did not get any interest for the substantial amount. The factual finding arrived at by the State and the National Commission are concurred with and in view of the circumstances, the respondents cannot be fastened for deficiency in service in terms of law or contract. [Para 9] [53-F-H; 54-A-C]

B 1.4 The following suggestions are made to the Post Offices dealing with various accounts of deposits:

C (i) Whether it is metropolitan or rural area, persons dealing with public money or those who are in-charge of accepting deposits to be conversant with all the details relating to types of deposits, period, rate of interest, eligibility criteria etc. for availing benefits under different schemes.

D (ii) It is desirable to exhibit all these details in vernacular language in a conspicuous place to facilitate the persons who intend to invest/deposit money.

E (iii) That if the Central Govt. issues any notification/ instructions regarding change in the interest rate or any other aspect with regard to deposits, the decision taken shall be immediately passed on to all the authorities concerned by using latest technology methods i.e. by fax, e-mail or any other form of communication so that they are kept updated of the latest developments.

F (iv) If there is any change in different types of schemes, it must be brought to the notice of the subordinate staff of the post offices dealing with deposits in order to ensure that correct procedures are followed and correct information is given to the public.

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The said observations are made since in the case on hand because of the lack of knowledge on the part of the Post Master who accepted the deposit and the appellant, one of the ancient temples in Tamil Nadu lost a substantial amount towards interest. [Paras 10 and 11] [54-D-H; 55-A-C]

Case Law Reference:

(1998) 9 SCC 706 Held applicable. Para 8

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4995 of 2006.

From the Judgment & Order dated 31.05.2006 of the National Consumer Disputes Redressal Commission at New Delhi in First Appeal No. 411 of 1997.

S. Aravindh, Rakesh K. Sharma for the Appellant.

A.S. Chandhiok, ASG, Sonia Mathur, Bhagat Singh, Snigdha Sharma, V.K. Verma for the Respondents.

The Judgment of the Court was delivered by

P. SATHASIVAM, J. 1. This appeal is filed by the appellant-Temple through its Joint Commissioner against the final order dated 31.05.2006 passed by the National Consumer Disputes Redressal Commission (in short "the National Commission") at New Delhi in First Appeal No. 411 of 1997 whereby the Commission dismissed their appeal.

2. Brief facts:

(a) The appellant is a temple situated in the State of Tamil Nadu. It is one of the ancient temples of Lord Kartikeya and is considered prime among the six holiest shrines of the Lord. Every year, lakhs of devotees throng the temple which is situated on a hill to receive the blessings of the Lord. The temple is being administered by the Hindu Religious and Charitable

- A Endowments Department of the Government of Tamil Nadu. The devotees make offering in cash and kind to the deity. The cash offerings are collected and invested in various forms. The income derived from such investments is utilized for charitable purposes such as prasadam, hospitals, schools and orphanages.
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- (b) According to the appellant, it had deposited a huge sum of money totaling to Rs.1,40,64,300/- with the Post Master, Post Office, Palani from 05.05.1995 to 16.08.1995 for a period of five years under the 'Post Office Time Deposit Scheme' (in short 'the Scheme'). On 01.12.1995, the Temple received a letter from the Post Master, Post Office, Palani-3rd Respondent herein informing that the Scheme had been discontinued for investment by institutions from 01.04.1995, and therefore, all such accounts should be closed without interest. The amount deposited by the Temple was refunded only on 03.01.1996 without interest.
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- (c) Aggrieved by the decision of the Postal Authorities, the appellant, on 10.01.1996, sent a legal notice to the respondents calling upon them to pay a sum of Rs.9,13,951/- within a period of seven days, being the interest @ 12% p.a. on the sum of Rs.1,40,64,300/- from the dates of deposit till the dates of withdrawal. As nothing was forthcoming from the respondents, the appellant preferred a complaint before the State Consumer Disputes Redressal Commission (in short "the State Commission"). Vide order dated 08.08.1997, the State Commission was divided over its opinion in the ratio of 2:1. The majority opinion comprising of the Chairman and Member II dismissed the complaint filed by the appellant.
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- (d) Aggrieved by the dismissal of the complaint by the State Commission, the appellant preferred an appeal to the National Commission which was also dismissed on 31.05.2006. Challenging the said order, the appellant has preferred this appeal by way of special leave before this Court.
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3. Heard Mr. S. Aravindh, learned counsel for the appellant and Mr. A.S. Chandhiok, learned Additional Solicitor General for the respondents. A

4. Points for consideration in this appeal are whether there was any deficiency in service on the part of the Post Master, Post Office, Palani-3rd Respondent herein and whether the appellant-complainant is entitled to any relief by way of interest? B

Discussion

5. We have already adverted to the factual details. It is the case of the respondents that the Central Government had issued a Notification being No. G & SR 118(E) 119(E) 120(E) as per which no Time Deposit shall be made or accepted on behalf of any institution with effect from 01.04.1995. It is not in dispute that the appellant-Temple had deposited a huge sum of money amounting to Rs.1,40,64,300/- with the Post Master from 05.05.1995 to 16.08.1995. The said deposit was for a period of five years under the Scheme. Though the 3rd Respondent had accepted the amount under the said Scheme and issued a receipt for the same, later it was found that the deposits made on and from 01.04.1995 were against the said Notification which amounted to contravention of the Post Office Savings Bank General Rules, 1981 (in short 'the Rules'). C
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6. In exercise of the powers conferred by Section 15 of the Government Savings Banks Act, 1873, the Central Government framed the above mentioned Rules. The Rules are applicable to the following accounts in the Post Office Savings Bank, namely, a) Savings Account b) Cumulative Time Deposit Account c) Recurring Deposit Account d) Time Deposit Account and it came into force with effect from 01.04.1982. Among various Rules, we are concerned with Rules 16 & 17 which read as under:- F
G

"16. Accounts opened Incorrectly.—(1) Where an account is found to have been opened incorrectly under a H

A category other than the one applied for by the depositor, it shall be deemed to be an account of the category applied for if he was eligible to open such account on the date of his application and if he was not so eligible, the account may, if he so desires, be converted into an account of another category *ab initio*, if he was eligible to open an account of such category on the date of his application.

(2) In cases where the account cannot be so converted, the relevant Head Savings Bank may, at any time, cause the account to be closed and the deposits made in the accounts refunded to the depositor with interest at the rate applicable from time to time to a savings account of the type for which the depositor is eligible.

17. Accounts opened in contravention of rules.—Subject to the provisions of rule 16, where an account is found to have been opened in contravention of any relevant rule for the time being in force and applicable to the accounts kept in the Post Office Savings Bank, the relevant Head Savings Bank may, at any time, cause the account to be closed and the deposits made in the account refunded to the depositor without interest.”

Since the deposits in the case on hand relate to Post Office Time Deposit Account, Rule 17 of the Rules is squarely applicable. The reading of Rule 17 makes it clear that if any Account is found to have been opened in contravention of any Rule, the relevant Head Savings Bank may, at any time, cause the account to be closed and the deposits made be refunded to the depositor without interest. Rule 16 speaks that where an account is opened incorrectly under a category other than the one applied for by the depositor, it shall be deemed to be an account of the category applied for if a person is eligible to open such account and if he is not so eligible, the account may be converted into an account of another category *ab initio*, if the person so desires and if he is found to be eligible. For any reason, where the account cannot be so converted, the account

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is to be closed and the deposits made in the accounts be
refunded to the depositor with interest at the rate applicable
from time to time to a savings account of the type for which
the depositor is eligible.

7. Before considering Rule 17, it is useful to refer the
communication dated 01.12.1995 of the Post Master-3rd
Respondent herein which reads as under:

“DEPARTMENT OF POSTS, INDIA

From

Post Master
Palani 624 601

To

The Joint Commissioner/
Executive Officer
A/M. Dhandayuthapani Swamy
Thirukoil, Palani

No. DPM/SB/Dlg.

Dated at Palani 01.12.1995

Sub: Investment by Institution in the Post Office Time
Deposits, K.V. Patras, NSC VIII Issue-reg.

Sir,

I am to inform you that with effect from 01.04.1995
investments by Institution in the P.O. T.D. V.P.+N.S.C. VIII
issue is discontinued. As Devasthanam is also an
Institution, I request you to close all the TD accounts
immediately without interest and also if any kind of above
said patras and certificates purchased by the
Devasthanam after 01.04.1995.

The following TD accounts have been opened at Palani
H.O. after 01.04.1995. Please close the accounts
immediately.

1) 5 year TD 2010417 dt. 05.05.1995, (2) 2010418 dt.
20.05.1995, (3) 2010419 dt. 31.05.1995, (4) 2010421 dt.

- A 14.06.1995, (5) 2010422 dt. 21.06.1995, (6) 2010423 dt.
03.07.1995, (7) 2010424 dt. 03.07.1995, (8) 2010425 dt.
11.07.1995 (9) 2010426 dt. 13.07.1995, (10) 2010428 dt.
29.07.1995, (11) 2010429 dt. 01.08.1995, (12) 2010430
dt. 07.08.1995, (13) 2010431 dt. 07.08.1985 and (14)
B 2010435 dt. 16.08.1995.

Yours faithfully
(Sd/-).....
Post Master
Palani 624 601"

- C It is clear from the above communication that with effect from
01.04.1995 i.e. even prior to the deposits made by the
appellant-Temple, investment by institutions under the Scheme
was not permissible and in fact discontinued from that date. It
is not in dispute that the appellant- Temple is also an institution
D administered and under the control of the Hindu Religious and
Charitable Endowments Department of the State. Vide the
above said communication, the Post Master, Palani informed
the appellant to close all those accounts since the same was
E not permissible. The communication dated 01.12.1995 also
shows that all such accounts should be closed and the amounts
so deposited are to be refunded without interest. In our case,
the deposit accounts have been caused to be closed and the
amounts deposited have been returned to the depositors
F without interest. Though the appellant claimed interest and
insisted for the same on the ground of deficiency in service on
the part of the Post Master, Palani, in view of Rule 17, the
respondents are justified in declining to pay interest for the
deposited amount since the same was not permissible. In the
light of Rule 17 of the Rules, as rightly concluded by the State
G and the National Commission, it cannot be held that there was
deficiency in service on the part of the respondents, 3rd
respondent in particular.

- H 8. The State Commission while rejecting the claim of the
appellant relied on a decision of this Court reported in

Postmaster Dargamitta, H.P.O., Nellore vs. Raja Prameelamma (Ms.) (1998) 9 SCC 706. In that case, the complainant therein issued six National Savings Certificates for Rs. 10,000/- each on 28.04.1987 from the Post Office. According to the Notification issued by the Government of India, the rate of interest payable with effect from 01.04.1987 was 11 per cent. But due to inadvertence on the part of the clerical staff of the Post Office, the old rate of interest and the maturity value which was printed on the certificates could not be corrected. The question that arose in that case was whether the higher rate of interest printed in the Certificate shall be paid or only the rate of interest mentioned in the Notification is applicable. This Court held that even though the Certificates contained the terms of contract between the Government of India and the holders of the National Savings Certificate, the terms in the contract were contrary to the Notification and therefore the terms of contract being unlawful and void were not binding on the Government of India and as such the Government refusing to pay interest at the rate mentioned in the Certificate is not a case of deficiency in service either in terms of law or in terms of contract as defined under Section 2(1)(g) of the Consumer Protection Act, 1986. The above said decision is squarely applicable to the case on hand.

9. It is true that when the appellant deposited a huge amount with the 3rd Respondent from 05.05.1995 to 16.08.1995 under the Scheme for a period of five years, it was but proper on the part of the Post Master to have taken a note of the correct Scheme applicable to the deposit. It was also possible for the Post Master to have ascertained from the records, could have applied the correct Scheme and if the appellant, being an institution, was not eligible to avail the Scheme and advised them properly. Though Mr. S. Aravindh, learned counsel for the appellant requested this Court to direct the 3rd Respondent to pay some reasonable amount for his lapse, inasmuch as such direction would go contrary to the Rules and payment of interest is prohibited for such Scheme

A in terms of Rule 17, we are not inclined to accept the same. We are conscious of the fact that a substantial amount had been kept with the 3rd Respondent till 03.01.1996 when the said amount was refunded without interest. In the light of the letter dated 01.12.1995 and in view of Rule 17 of the Rules, failure
B to pay interest cannot be construed as a case of deficiency in service in terms of Section 2(1)(g) of the Consumer Protection Act, 1986. Both the State and the National Commission have concluded that the 3rd Respondent was ignorant of any
C Notification and because of this ignorance the appellant did not get any interest for the substantial amount. We agree with the factual finding arrived at by the State and the National Commission and in view of the circumstances discussed above, the respondents cannot be fastened for deficiency in service in terms of law or contract and the present appeal is
D liable to be dismissed.

10. Before parting with this appeal, we intend to make the following suggestions to the Post Offices dealing with various accounts of deposits:

- E (i) Whether it is metropolitan or rural area, persons dealing with public money or those who are in-charge of accepting deposits to be conversant with all the details relating to types of deposits, period, rate of interest, eligibility criteria etc. for availing
F benefits under different schemes.
- (ii) It is desirable to exhibit all these details in vernacular language in a conspicuous place to facilitate the persons who intend to invest/deposit money.
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- (iii) That if the Central Govt. issues any notification/instructions regarding change in the interest rate or any other aspect with regard to deposits, the decision taken shall be immediately passed on to
H all the authorities concerned by using latest

technology methods i.e. by fax, e-mail or any other A
form of communication so that they are kept
updated of the latest developments.

- (iv) If there is any change in different types of schemes, B
it must be brought to the notice of the sub-ordinate
staff of the post offices dealing with deposits in
order to ensure that correct procedures are followed
and correct information is given to the public.

11. We are constrained to make these observations since C
in the case on hand because of the lack of knowledge on the
part of the Post Master who accepted the deposit and the
appellant, one of the ancient temples in Tamil Nadu lost a
substantial amount towards interest.

12. With the above observations, we dismiss the appeal D
with no order as to costs.

N.J.

Appeal dismissed.