

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION HOWRAH
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Complaint Case No. CC/218/2020
(Date of Filing : 13 Nov 2020)

1. MURLI DHAR RATHI,

S/O Kashiram Rathi, residing at 2/1, Ganapath Rai Khemka Lane, 4th floor, Bally (M) Liluah, Howrah 711 204 previously resident of 74/77, Jelia Para Lane 5th fl P.O. Salkia, P.S. Golabari, Howrah 711 106

.....Complainant(s)

Versus

1. The Branch Manager, Sahara Credit Cooperative Society Limited.,

(M/S Sahara India), Shivpur Branch, (Branch Code 1585) Branch office at 169, G.T. Road (South), 2nd Floor, Shivpur, P.O. and P.S. Shivpur, Howrah 711102.

2. The Regional Manager, Sahara Credit Cooperative Society Ltd., (M/S Sahara India),

395/2, G.T. road (South) 2nd floor, A.B. Palace, P.O. B.Garden and P.S. Shibpur, Howrah 711 103

3. The Area Manager, Sahara Credit Cooperative Society Ltd., (M/S Sahara India),

office at Sahara India Sadan, 2A, Shakespeare Sarani, P.O. Middleton Row and P.S. Shakespeare Sarani, Kolkata 700 071

4. The Chairman, Sahara Credit Cooperative Society Ltd., (M/S Sahara India),

Registered Office at Sahara India Bhawan, 1, Kapoorthala Complex, Aliganj, Lucknow 226024. State of Uttar Pradesh.

.....Opp.Party(s)

BEFORE:

HON'BLE MR. Debasish Bandyopadhyay PRESIDENT

HON'BLE MR. Dhiraj Kumar Dey MEMBER

HON'BLE MRS. Minakshi Chakraborty MEMBER

PRESENT:

Dated : 14 Jun 2024

Final Order / Judgement

Date of Filing : 13 November, 2020.

Date of Judgement : 14 June, 2024.

Mr. Dhiraj Kumar Dey, Hon'ble Member.

This complaint under Section 35 of the Consumer Protection Act, 2019, the Act, has been filed by Sri Murli Dhar Rathi, for short the Complainant, against (1) the Branch Manager, (2) the Regional Manager and (3) the Chairman, all of M/s. Sahara Credit Co-operative Credit Society Ltd., collectively called as the Opposite Parties or OPs, alleging deficiency in service occurred

from the part of the OPs arising out of non-payment of deposited amount together with interest accrued upon.

The material facts arising out of the complaint petition and the annexed documents annexed with it is that the Complainant opened a recurring deposit scheme named as **SAHARA.G.ANOKHA** on 12/06/2014 for 72 months with monthly deposit of ₹5,200/- per month and deposited a total sum of ₹1,56,000/- for 30 months up to 19/12/2016 (₹5,200/- X 30) of Sahara Credit Cooperative Society Ltd. The OP-1 issued a Pass Book for this Recurring Deposit Scheme and corresponding Receipts were issued during each deposit. Complainant stated that after expiry of 72 months from the date of opening the account he wanted to withdraw the amount payable for which he contacted with the OP-1 to deposit relevant original papers. Unfortunately the OP-1 did not receive the papers but assured the complainant that after few months later they would refund the amount receivable according to the rules of the scheme through cheque. Days passed by but the complainant could not receive the amount payable to him. He frequently visited the office of the OP-1 with his earnest request but his efforts could not bring any satisfactory result. Lastly he sent a letter to all the OPs on 30/09/2020 requesting them to refund his deposited amount along with other amounts payable under this scheme. But this time also his effort could not bring any satisfactory result. Ultimately he filed this instant complaint on 13/11/2020 before this Commission praying to direct the OPs : (i) to pay compensation of ₹50,000/- for his mental and financial harassment, (ii) to refund the total deposited amount of ₹1,56,000/- in respect of his recurring deposit together with 10% interest per annum, (iii) to pay simple rate of interest upon all the dues payable to him till realisation, (iv) litigation cost of ₹40,000/- and any other relief or reliefs as this Commission may deem fit and proper and to pass such order restraining the OPs from doing such harassment.

Complainant filed copies of (i) the Pass Book bearing No. 2740 00299177 issued by the OP company containing 5 pages, (ii) receipt bearing no. 08063 0322289, dated 19/12/2016 and (iii) the letter dated 30/09/2020 issued by him to the OPs along with postal track reports as annexure to the complaint petition.

Notices were served upon the OPs, after admission, to appear and contest the case by filing their written version. OPs appeared through their Ld. Lawyer and filed written version. Then the complainant filed his Evidence on Affidavit. OPs failed to file any questionnaire nor did they file evidence on affidavit despite repeated opportunities were given to them. Ultimately argument was heard in details and the complainant filed the Brief Notes on Argument. We have now come to the position to deliver the Final Order in this case. We have to decide whether the OPs are deficient in rendering proper service to the complainant for non-disbursing the payable amount for which the complainant is entitled to get relief as prayed for.

DECISION WITH REASONS

The factual matrix of this case as emerged from the complaint and the annexed documents is that the complainant had opened a Recurring Deposit Scheme on 26/09/2012. The OP Company, i. e. Sahara Credit Cooperative Society Limited, having its registered office at Sahara India Bhawan, 1, Kapoorthala Complex, Aliganj, Lucknow-226024, issued a Pass Book having No. 2740 00299177 on 12/06/2014. The name of the Scheme for such deposit is **SAHARA.G.ANOKHA** and monthly denomination was settled at ₹5,200/- per month. Tenure

of this scheme was for 72 months. Account Number was assigned as 15855103086 for this account. Date of maturity is written as 12/06/2020. From this Pass Book it is found that on the date of opening of this account the complainant deposited ₹5,200/-. Thereafter the complainant deposited regularly monthly instalments at the rate of ₹5,200/- per month and the OPs made entries regularly in this Pass Book up to 30th instalment deposited by the complainant on 19/12/2016 and issued respective receipts. On 19/12/2016 when the depositor/complainant deposited ₹5,200/- and the OP-1 issued receipt bearing no. 08063 0322289 which is annexed with the complaint petition. It is found in the Pass Book entry that the complainant has deposited a total of ₹1,56,000/- which comes to the denomination for 30 months. Complainant stated that after the maturity date he wanted to collect the accrued amount in his account for which he contacted the OP-1 who failed to disburse any amount. His repeated requests became fruitless for which he filed the instant case to get relief as prayed for in his petition. Here, complainant stated nothing about his inability to continue his monthly subscription after 30th month.

In their written version the OP denied all the allegations made by the complainant in his complaint petition. They said that they had not denied to pay the maturity amount to the complainant. They stated that all the allegations are false and fabricated as the complainant did never come to the OP along with original certificate and KYC documents to be submitted for disbursement for which they were unable to disburse the maturity amount. They also stated that there was an embargo order passed by the Hon'ble Supreme Court for which they were unable to make payment. Their submission is that they were not negligent in their duty and no deficiency in service had been occurred from their part. Moreover, they viewed that the complainant is not a consumer in the instant case. But they failed to explain why, despite the embargo imposed by the Hon'ble Apex Court, they have collected money from the complainant knowing fully well that they were unable to disburse the maturity amount.

Here in this case, the OP Company took regular monthly deposits from the depositor/complainant up to 30th monthly instalment thus a total amount of ₹1,56,000/- has been deposited. Complainant wanted to withdraw his deposited amount but the OPs failed to fulfil his request. As per the terms and conditions written in this Pass Book the depositor/complainant had to deposit his monthly contribution of ₹5,200/- up to 72 months and after expiry of this tenure the OPs were bound to refund the deposited amount together with interest accrued thereon. But if a depositor failed to deposit all the instalments then what was the refund procedure has not been stated in the terms and conditions of this scheme. It is stated therein that if a depositor made payment for 72 months at the rate of ₹200/- per month then the payment would be made as per the following table:-

<i>Tenure (Month)</i>	<i>Principal Amount (₹200/- p.m.)</i>	<i>Bonus Amount (₹)</i>	<i>Maturity Amount (₹)</i>
72	14,400/-	5,120/-	19,520/-

[Emphasis provided.]

In case of payment of irregular accounts it is stated that the Society would charge liquidated damages on those irregular accounts and this liquidated damages would be deducted against the interest amount payable to the account older. This statement clearly shows that the

depositor, here the complainant, should get at least the deposited amount of ₹1,56,000/- together with some interest as decided by the OPs.

A question now arises whether the complainant is a Consumer as defined in the Consumer Protection Act, 2019? The facts in this case state us that the complainant deposited some money in a specific scheme of the OPs and the OPs assured a higher return which implies that the OPs promised to give service to the depositor in the form of monetary benefit. This implies that the complainant/depositor is a “Consumer” as is defined under Section 2(7) of the C. P. Act, 2019 who intended to avail “Service”, as per Sec. 2(42) of the C. P. Act, 2019, from the OP. There is an array of judgements of the Hon’ble Apex Court as well as of the Hon’ble National Commission wherein it is stated that when a person availed or hired a service of a company/society for a consideration then the person can be called as a Consumer, under the C. P. Act, of that company/society. Here the cooperative society in question is the Service Provider whose service is intended to avail by the Depositor/Consumer. So, a Consumer Commission has the jurisdiction to try a dispute arising out of the financial transaction like this case. The OP took deposit of the said amount for a particular scheme with a promise to return higher amount after a particular period of time. Complainant deposited his money with a hope to get return of higher amount from the OPs who were running their business with such offers. So question of commercial transaction does not arise. Complainant stated that he requested the OPs repeatedly to refund the maturity amount but failed. Whether the OPs had issued notice to the depositor/complainant after the expiry of the plan period to follow the withdrawal procedure or not is not clear as the OPs did not contest this case after filing their written version and the complainant has not stated anything on this matter in his complaint petition as well as in his evidence on affidavit and B.N.A, except the statement of his intention to deposit all relevant papers to the OP-1. Moreover, the OPs stated in the written version that there was an embargo order passed by the Hon’ble Supreme Court for which they could not remit the maturity amount. But they had not explained it in detail and they had not clarified the fact on what ground they had collected money from the depositor/complainant knowing well that they could not disburse the maturity amount due to the embargo order.

So, it is a fact that the complainant has not received the payable amount due to inaction of the OPs which should be termed as deficiency of service caused by the OPs for which the complainant is entitled to get relief. The OPs are liable to refund the deposited amount together with compensation for their deficiency in service. The Complainant prayed for ₹50,000/- as compensation for his mental and financial harassment and also prayed for simple rate of interest upon all dues payable to him till full and final realisation. But it is a settled principle that when award is given in the form of interest then awarding compensation along with interest is unjustified. So, we think that awarding interest at the rate of 9% per annum, to be calculated on the monthly deposit basis, will be sufficient in this case. The complainant is also entitled to get ₹5,000/- as litigation cost from the OPs as he is compelled to approach before this Commission for redressal.

Hence, it is

ORDERED

that the complaint Case No. CC/218/2020 be and the same is allowed on contest against the Opposite Parties.

The Opposite Parties are directed to pay the Complainant the deposited amount of ₹1,56,000/- along with a simple interest at the rate of 9% per annum with effect from the dates of respective deposits till the date of this order. The Opposite Parties are also directed to pay ₹5,000/- as litigation cost to the complainant. These payments should be made by the Opposite Parties to the Complainant within 45 days from the date of this order failing which the entire sum shall carry 9% simple interest per annum till full and final realisation.

Let a copy of this order be issued, on demand, to both the parties free of cost.

Dictated and corrected by me

Member.

**[HON'BLE MR. Debasish Bandyopadhyay]
PRESIDENT**

**[HON'BLE MR. Dhiraj Kumar Dey]
MEMBER**

**[HON'BLE MRS. Minakshi Chakraborty]
MEMBER**