

BEFORE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
SHIMLA (H.P.)

Complaint No.: 40/2021
Presented on: 23.02.2021
Decided on: 22.06.2024

Bhadur Singh Pundir, S/o Shri Jhamthu,
R/o Village Baag, Post Office Manjholi,
Tehsil Kupvi, District Shimla, H.P.

....Complainant

Versus

1. ICICI Bank Tower,
Ground Floor, Bandra Kurla, complex- Bandra,
East Mumbai-400051,
Through its Managing Director.
2. ICICI Bank Ltd.,
98 Ward No.6, Main Market Road,
Paonta Sahib, District Sirmaur, H.P.-173025,
Through its Branch Manager.

....Opposite Parties

Coram :

Dr. Baldev Singh, President.
Ms. Janam Devi, Member.

For the Complainant: Mr. Virender Chauhan, Advocate
For the Opposite Parties: Mr. Vijay Verma, Advocate.

ORDER:

Present complaint has been filed by Bhadur Singh Pundir (hereinafter referred to as the complainant) under Section 35 of the Consumer Protection Act 2019 (hereinafter referred to as the Act) against the ICICI Bank & Anr. (hereinafter referred to as the OPs), on account of deficiency in service and unfair trade practice seeking relief therein that OPs be directed to refund the amount illegally deducted from his current account with interest; to pay Rs.80,000/- as damages; to issue NOC; to pay Rs.30,000/- as litigation costs etc.

2. The case of the complainant in brief is that the complainant had borrowed personal loan of Rs.1,80,000/- on 15.01.2019 from opposite party No.2 alongwith interest @16.50 with additional interest 24.00% and the amount was to be paid in monthly installments of Rs.5,125/- and further credit facilities have been granted against the payment of loan amount. It is

stated that the rate of interest of opposite parties in personal loan was highly excessive, so the complainant had taken loan from another bank for clearing the loan amount of opposite parties. It is stated that the complainant had regularly paid monthly installments to opposite parties. It is stated that on 5th November 2020, opposite party No.1 issued a letter to complainant for prepayment of his personal loan and total amount payable was shown as Rs.1,47,462.23 and if complainant prepays the total amount, further installments are not required to be paid. It is stated that the complainant on 05.11.2020, paid total amount of personal loan i.e. Rs.1,47,463/- to opposite party No.2 through cheque. It is stated that after clearing the loan amount as per the directions of the opposite parties, the complainant applied for NOC, but the same was not provide to the complainant by the opposite parties on one pretext or another and he had to visit the OPs number of times, that too without any result. It is stated that on 5th January 2021, an amount of Rs.3,454/- and Rs. 5,125/- was illegally deducted by opposite parties as loan amount from his current account. It is stated that due to deficiency in service on the part of the opposite parties in illegally deducting loan amount which is already paid by complainant and for not issuing NOC, the complainant has suffered mental tension and agony. It is stated that aforesaid acts on the part of the OPs amount to deficiency in service and unfair trade practice. It is prayed that the complaint may be allowed.

3. It is stated that after admission of complaint, notices were issued to the OPs. The complaint so filed has been opposed by the OPs by filing reply taking preliminary objections therein regarding maintainability, cause of action, complainant does not fall within the definition of consumer etc. It is stated that OPs have sent a Bank Draft to the complainant of a sum of Rs.8,820/- dated 10.5.2021 through registered post and this amount includes refund of one EMI with 9% interest. It is stated that complainant had availed a personal loan from the OPs for a sum of

Rs.1,80,000/- (One Lac Eighty thousand) and the complainant now claims that the replying OPs have charged from him higher rate of interest in comparison to other Banks. It is stated that after entering into an agreement with the Bank the loan amount was sanctioned and disbursed to the complainant under the above noted agreement on 15.01.2019 and the rate of interest was 16.50% on the same for a tenure of 57 months and the equated monthly installment of the same was Rs.5,125/- per month. It is stated that later on the complainant made the prepayment and closed the loan account by getting the same transferred to other financial institution. It is stated that customer visited the branch on 5.11.2020 and asked to pre-close his Personal loan and the entry for pre-closure was done on the same day, however, same day the EMI got bounced from his other bank account. It is stated that on 19.11.2020 branch received SR711609943 from backend for remaining amount collection and the branch contacted the customer on the same day to deposit Rs.5125/- towards EMI amount plus Rs.472 as bounce charges, but customer refused to visit the branch and branch closed the SR711609943 as guided by person, who has raised the SR that if customer refused to pay the amount close the SR at your end. It is stated that customer visited the branch after one month and at that time branch routed him to loan hub branch Dehradun and customer made the pending payment in hub branch Dehradun, but still the NOC was not issued to him. It is stated that he again visited the branch and request was raised vide SR723975049 as guided loan hub branch for issuance of NOC. It is stated that branch officials have tried to convince the customer to withdraw the case as Bank was ready to pay Rs.8,579.00 alongwith the 9% interest, however, customer demanded Rs. 50,000.00 and more. It is stated that customer had opted for repayment mode as ECS at the time of loan booking for EMI banking and accordingly, EMI transactions are duly presented through ECS mode on cycle date 05th of every month from the month of March 2019 (2nd installment) and EMI for the

month of March 2019 till January 2021 were presented for banking, however, customer's EMI for the month of August 2019, November 2019, December 2019, September 2020 to November 2020 were bounced with reason insufficient funds. It is stated that later customer has made payment through Cheque No.040731 of Rs.1,47,463.00 on November 05, 2020 and receipt of the same was updated as foreclosure, hence, EMI for the month of December 2020 was on hold for banking through ECS. It is stated that since the loan was active in system at the time of EMI banking for the month of January 05, 2021. Hence, January 2021 EMI was banked through ECS as per the process and same was cleared. It is stated that further, as per SOA, customer has made cash payment of Rs.3,454.00 on January 05, 2021. It is stated that complainant/customer has made payment through cheque on November 05, 2020 and receipt of the same was updated as foreclosure, however, there was no foreclosure SR raised and operations have pro-actively raised the foreclosure SR711609943 in the month of November 2020. It is stated that the request for closure of Loan Account LPSHM00038458365 could not be completed due to shortfall amount was reflecting in loan account and accordingly Operation team have assigned this closure SR711609943 to BR_PAONTA_SAHIB_1407 in November 2020 to collect the shortfall amount, however, branch has closed the SR711609943 in the month of December 2020. It is stated that later Branch has raised closure SR723975049 on January 15, 2021 however Branch- BR_PAONTA_SAHIB_1407 has provided back date approval dated January 05, 2021 for foreclosure of personal of Loan Account No LPSHM00038458365 and accordingly, loan has been closed on January 29, 2021 considering backdated closure date i.e January 5, 2021. It is stated that further as per process, NDC for said case has been sent on registered E mail ID on February 3, 2021 and post escalation NDC has been re-dispatched to customer address through Blue dart courier vide AWB No: 38174198650 March

24, 2021. It is stated that this was a technical problem and the complainant was made to understand and was assured refund of the Bounced EMI in November 2020. Had this been told to the Bank which Financed the Complainant i.e. for foreclosure of the loan even then the things would have been different and instead of financing the complainant a sum of Rs 147462/-, the financing Bank/transferee Bank could have financed him one installment more. It is stated that a very simple but technical reason, solution of which was given to the complainant by way of depositing one installment which was refundable was not agreed by the complainant has led the complainant to file this complaint which stands solved the way as suggested to the complainant earlier. It is stated that there is neither any deficiency in service nor unfair trade practice on the part of the replying OPs and prayed that the complaint may be dismissed.

4. Rejoinder was filed on behalf of the complainant and the allegations as contained in the complaint were reasserted after refuting those of reply filed by OPs contrary to the complaint.

5. The parties adduced evidence in support of their contentions. On behalf of the complainant affidavit of complainant was tendered in evidence. Complainant has also filed documents in support of his contentions. On behalf of the OPs affidavit of Monika Dhiman was tendered in evidence. OPs have also filed documents in support of their contentions.

6. We have heard learned counsels for the parties and have also gone through the entire record, carefully.

7. After hearing the submissions made by Ld. Counsel for the parties and perusing the entire record carefully, including pleadings and evidence on record, it is very much clear that it is not in dispute that the complainant availed personal loan from OPs worth Rs.1,80,000/- on 15.01.2019, which was to be repaid in 57 monthly installments worth Rs.5125/- per month alongwith interest and additional interest. It is also not in dispute that the

opposite party No.1 on the request of the complainant, wrote letter dated 5th November 2020 for pre-closure of the personal loan account to complainant by making payment of Rs.1,47,463/- to the opposite parties. The plea of the complainant is that complainant has deposited the amount of Rs.1,47,463/- as was demanded by the opposite parties, but even then the account was not closed and the opposite parties have deducted Rs.3,454/- and Rs.5,125/- illegally from the account of the complainant. It is also stated that opposite parties have not issued NDC, for which complainant was entitled after making payment of entire loan amount. It is also stated that said act on the part of the opposite parties amounts to deficiency in service and unfair trade practice and prayed that complaint may be allowed. As against this, the plea of opposite parties is that no doubt the complainant had availed loan facility from the opposite parties and opposite parties had issued letter on 5th November 2020 to the complainant to make payment of Rs.1,47,463/- for pre-closure of loan account. It is stated that complainant through cheque made payment and at that time there was no sufficient fund in the account of the complainant to honour the cheque and due to that reason one more installment was debited which was due on that date worth Rs.5,125/- from the account of the complainant along with cheque bouncing charges. It is also stated that complainant was informed about cheque bounce and that he has to deposit one installment and the same will be refunded to him after settlement of account, but the said proposal was not acceptable to the complainant and he has also not come to the opposite parties well in time. It is further stated that opposite parties was ready to refund Rs.8,579/- alongwith interest at the rate of 9% per annum, to the complainant, but the complainant was demanding Rs.50,000/- for which he was not entitled. It stated that account could not be closed due to technical reason mentioned above, otherwise the matter has been settled by the opposite parties at their end and there was no deficiency in service and unfair trade

practice on the part of the opposite parties and prayed that complaint may be dismissed.

8. It is very much clear from the foregoing discussion of pleadings and evidence of the parties on the record that complainant availed the facility of loan from the opposite parties and opposite parties had asked the complainant to make payment of Rs.1,47,463/- for pre-closure of the loan, which payment was made by the complainant to the opposite parties through cheque, but at that time there was insufficient fund in the account of the complainant and due to that reason the loan account could not be closed and opposite parties have charged some amount on account of cheque bouncing and on the same date the premium was also due, therefore, amount of Rs.5,125/- and Rs.3,454/- were deducted, however, amount of Rs.8579/- alongwith interest was paid by opposite parties to the complainant, which fact has been admitted by the complainant in rejoinder, wherein it is pleaded that after filing the present complaint, the opposite parties had refunded the amount, which was illegally deducted from the account of the complainant. As such there remains no dispute so far amount of money and closure of loan account of the complainant is concerned except the time of making repayment by OPs to complainant. However, the issue regarding issuance of NDC is still there. In this regard, the opposite parties stated that NDC was e-mailed to the complainant, but no document has been filed to prove the same and at the same time the complainant's stand is that NDC has not been received. Further, so far timing of making repayment by OPs to complainant is concerned, it is clear from the record that present complaint has been filed by the complainant on 23rd February, 2021 and as per stand of the opposite parties the amount of Rs.8,579/- alongwith interest was paid through bank draft to the complainant on 10th May, 2021 i.e. after filing of the present complaint. Hence, we are of the considered opinion that the opposite parties could have settled the matter at their own end

when payment was made by the complainant worth Rs.1,47,463/- as per letter of opposite parties including bouncing of cheque etc., but the same was not done and due to that reason complainant was to file the present complaint, which amounts to deficiency in service and unfair trade practice on the part of OPs. The net conclusion of our foregoing discussion is that the OPs have failed to settle the loan account of complainant after receipt of payment of amount, as was demanded from the complainant and at the same time had not issued the NDC in favour of the complainant, for which the complainant was entitled. The complainant through evidence on record has been able to prove his plea and allegations made in the complaint against the OPs and the OPs are under obligation to indemnify the loss caused to the complainant due to inaction on the part of the OPs. Accordingly, the complaint deserves to be allowed partly and the OPs are held liable to compensate the complainant adequately for the same and to issue NDC in favour of the complainant.

9. In view of the foregoing discussion and reasons assigned therein the complaint is ordered to be allowed partly and the OPs are directed to issue NDC in favour of the complainant after closing the loan account of the complainant. The OPs are also directed jointly and severally to pay a sum of Rs.3,000/- to the complainant as compensation for mental harassment and agony and sum of Rs.2,000/- as costs of litigation. The OPs are directed to comply this order within 45 days from the date of receipt of copy of the order. Copy of this order be supplied to the parties free of cost as per rule. The file after its due completion be consigned to the Record Room.

Announced on this the 22nd day of June, 2024.

(Dr. Baldev Singh)
President

(Janam Devi)
Member