

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**REVISION PETITION NO. 3383 OF 2017**

(Against the Order dated 31/07/2017 in Appeal No. 24/2011 of the State Commission Uttar Pradesh)

1. VINEET KUMAR DIXIT

S/O. SHRI RAMESH CHANDRA DIXIT R/O. GALI NO. 1, GULAR ROAD,  
ALIGARH-202001  
UTTAR PRADESH

.....Petitioner(s)

Versus

1. SENIOR SUPERINTENDENT OF POST OFFICES & ANR.

ALIGARH DIVISION,  
ALIGARH-202001  
UTTAR PRADESH

2. UP DAK PAL (SUB POSTMASTER)

TIKARAM MANDIR MARG, POST OFFICE,  
ALIGARH-202001  
UTTAR PRADESH

.....Respondent(s)

**REVISION PETITION NO. 3384 OF 2017**

(Against the Order dated 31/07/2017 in Appeal No. 30/2011 of the State Commission Uttar Pradesh)

1. MANOJ KUMAR SHARMA

S/O. SHRI RAM DUTT SHARMA, R/O. ISHAPUR COLONY NEAR BANNA DEVI,  
G.T. ROAD.  
ALIGARH-202001  
UTTAR PRADESH

.....Petitioner(s)

Versus

1. SENIOR SUPERINTENDENT OF POST OFFICES & ANR.

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UTTAR PRADESH

.....Respondent(s)

**BEFORE:**

**HON'BLE AVM J. RAJENDRA, AVSM VSM (Retd.),PRESIDING MEMBER**

FOR THE PETITIONER :

FOR THE PETITIONER : MR.M.K. DUA, ADVOCATE  
MS. KAMINI SINGH, ADVOCATE

FOR THE RESPONDENT :

FOR THE RESPONDENTS : MR.RAJINDER NISCHAL, ADVOCATE

**Dated : 12 July 2024**

**ORDER**

1. These two Revision Petitions No.3383 and 3384 of 2017 have been filed under Section 21(b) of the Consumer Protection Act, 1986 ('the Act') by the Petitioners/Complainants against the impugned order dated 31.07.2017, passed by the U.P. State Consumer Disputes Redressal Commission, Lucknow ('State Commission') in FA Nos.24 and 30 of 2011 respectively. Vide Order dated 31.07.2017, the learned State Commission allowed the said Appeals of the Respondents/OPs and set aside the Order dated 21.09.2010 passed by the District Consumer Disputes Redressal Forum, Aligarh ("District Forum") in CC Nos.116 and 117 of 2009 respectively wherein both the complaints filed by the Petitioners/Complainants were allowed.

2. Since the facts and questions of law involved in both the Revision Petitions are substantially similar, except for minor variations in dates and events, both the petitions are being disposed of by this common Order. For ease of reference, R.P. No.3383 of 2017 shall be considered as the lead case, and the facts presented below are drawn from ***Consumer Complaint No. 116/2009.***

3. For convenience, the parties are being referred to as placed in the original Complaint filed before the District Forum.

4. Brief facts, as per the Complainant, are that in November 2003, he opened two Recurring Deposit (RD) accounts in the name of his minor son at the office of OP-2 i.e. RD Account No. 363378 amounting to Rs. 600/- and RD Account No. 363771 amounting to Rs.500/-. RD Account No. 363378 matured in November 2008. The complainant contacted OP-2 for payment, but no payment was made, and the passbook for the said account was retained by OP-2. The complainant contacted OP-1 and made oral and written complaints. However, no payments were made. On 03.02.2009, he sought information under the RTI Act, 2005. But, he did not receive complete information. On 02.04.2009, he served a legal notice. But, neither payment was made nor any reply was given. Being aggrieved, he filed a Consumer Complaint before the District Forum alleging deficiency in service by not paying the dues, not responding to complaints/ legal notice and sought payment of maturity proceeds of Rs.42,000/- in respect of RD A/c No. 363378, compensation of Rs. 50,000/- and Rs. 5,000/- costs.

5. In Reply before the District Forum, OPs admitted the existence of the RD Accounts in question and acknowledged deposited amount. OPs contended that Shri Ramesh Chand Dikshit (Father of the Petitioner), Sub Post Master at Sub Post Office, Medical College Aligarh had embezzled Rs.5,62,032/-. The Postal Dept found him guilty of embezzlement and FIR No. 176/2009 under Sections 420, 406, 467, 468 and 471 of the IPC was registered against him at Police Station Civil Line, Aligarh. The operation of the disputed Accounts was stayed under the Public Accountants Default Act, 1850 on the grounds of embezzlement. The stay was to be released after Shri Ramesh Chand Dikshit deposits the embezzled amount. OPs contended that the Postal Dept experienced financial crisis and reputational damage due to the embezzlement. The dispute does not fall within the jurisdiction of the Forum and is liable to be dismissed with costs.

6. The District Forum in its Order dated 21.09.2010 allowed the complaint and passed the relevant order as under:-

**“ORDER**

***Complaint of the complainant is accepted and opposite party is directed to pay to the complainant maturity amount in R.D. Account No. 363378 within one month of this order and also to pay simple interest @ 8% from the date of maturity to the date of payment. In addition to this complainant is also entitled to receive Rs. 3,000/- towards compensation for mental agony and Rs.2000/- towards litigation expenses from the opposite parties.” (Extracted from translated copy)***

7. Being aggrieved by the District Forum order, the Respondents/ OPs filed Appeal No. 24/2011 and the State Commission vide Order dated 31.07.2017 allowed the Appeal and set aside the Order of the District Forum dated 21.09.2010, with the following observation:

***“In this regard questioned decision/order dated 21.09.2010 of the District Consumer Forum and grounds appeal were appreciated and also heard the arguments of Dr. Udai Vir Singh learned counsel for the appellants and Shri Sanjay Kumar Shrivastav learned counsel for the respondents and also appreciated the written arguments filed on behalf of the appellant party.***

***In the written arguments filed by the appellants, it has been submitted that Shri Ramesh Chand Dikshit has caused embezzlement and misused the public money. It is also stated that when he was posted as sub-postmaster at Medical College he had caused embezzlement of Rs.5,62,032/- and First Information Report u/s 420/406/467/468/471 of I.P.C. had been filed against him and R.D. Account which was opened in the name of Baby son by Shri Ramesh Chand Dikshit. It has been found during investigation that R.D. account which was opened by the respondent in the name of Baby son was opened through Smt. Neeta Gupta who was the agent of Shri Ramesh Chand Dikshit. It is also stated by the Appellant Department has restrained the payment under Public Accounts Default Act,1850 and it is also stated that the order cannot be challenged under the name of deficiency in service since the payment has been stopped under the said Act.***

***In the grounds of appeal, it has been stated that Shri Ramesh Chand Dikshit had opened R.D. accounts in the name of his close relatives, which are as under:***

- 1. R.D. Account no. 363353 Km. Asha daughter of Shri Manoj Kumar Rs.18000/-***
- 2. R.D. Account No. 363354 Km. Asha daughter of Shri Manoj Kumar Rs.19,120/-***
- 3 R.D. Account No. 363450 Shri Praveen Kumar Rs.26,500/-***
- 4.R.D. Account No. 363378 Baby daughter of Shri Vineet Kumar Dikshit Rs.18,000/-***
- 5. R.D. Account No. 363371 Baby daughter of Shri Vinish Kumar Dikshit Rs.21,000/-***

***In the grounds of appeal, it has been stated that the amount deposited in the above accounts has been Investigated by Inspector, Post Office (North) Aiiigarh and it has been found by him that amount in these accounts have been deposited by Shri Ramesh Chand Dikshit through his agent Smt. Neeta Gupta and public money has been embezzled by Shri Ramesh Chand Dikshit and recovery proceedings were initiated by the Department against Shri Ramesh Chand Dikshit under P.A.D. Act, 1950 and in which amount was deposited by Shri Ramesh Chand Dikshit and necessary orders were also passed by the Department.***

***Based on the facts and circumstances and written arguments filed on behalf of both the parties we have found that in the present case withdrawal of embezzled amount had been stayed in the department proceedings and criminal case was also filed in this regard which is subjudice. After appreciating the complete facts we are of the opinion that the point of deficiency in service raised by the Complainant does not come under the category of deficiency in service. Instead departmental proceedings against that employee who opened R.D. Accounts in the names of children of his relatives and deposited money in those accounts and embezzled that money and this case filed by the appellant does not come under the deficiency in service defined under Consumer Protection Act, 1986. The decision/order of the District Consumer Forum is not according to law and is liable to be set aside. The appeal of the appellant is therefore liable to be accepted.***

**ORDER**

***Appeal of the appellant is accepted. Decision/order dated 21.09.2010 in Complaint No.117/2009 of the District Consumer Forum, Aligarh is set aside.***

***Parties shall bear the expenses of appeal on their own."***

8. Being dissatisfied by the Impugned Order dated 31.07.2017 passed by the State Commission, the Petitioner / Complainant filed the instant Revision Petition.

9. In his arguments, the learned counsel for Petitioner/Complainant reiterated the facts stated in the Complaint and the grounds advanced in the instant Revision Petitions. He argued that Shri R.C. Dixit was acquitted by the Criminal Court, vide judgment dated 01.10.2018 and in the said judgment it has been mentioned that inquiry officer of the Respondents also not found him guilty. He further contended that withholding the money of the minor without any authority of law comes under the deficiency of service. He further argued that withholding of retirement benefits etc. of about Rs.7,00,000/- and attachment of residential property of Shri R.C. Dixit were sufficient to satisfy the recovery certificate of Rs.5,62,032/-. The maturity proceeds of the RD account in the name of minor had not been withheld or attached under the PADA, 1850 as the same has not been mentioned in the Recovery Certificate dated 19.06.2008. He further submitted that Shri R.C. Dixit died on 21.12.2019. He argued in favour of the order of the District Forum and sought to set aside the order of the State Commission.

10. On the other hand, the learned Counsel for the Respondent/ OP argued in favour of the impugned order of the State Commission and sought dismissal of the Revision Petitions with costs. He has relied upon the judgment of Hon'ble High Court of Himachal Pradesh at Shimla in the case of ***Sunita Gupta vs. Union of India (UOI) and Ors., MANU/HP/0027/2007***. He has also relied upon the Section 4 of the Public Accounts Default Act, 1850 reads as under:

***"4. Prosecution of accountants and sureties.-The person or persons at the head of the office to which any public accountant belongs may proceed against any such public accountant and his sureties for any loss or defalcation in his accounts, as if the amount thereof were an arrear of land-revenue due to Government."***

11. I have examined the pleadings and associated documents placed on record, including the orders of the learned District Forum and learned State Commission and rendered thoughtful consideration to the arguments advanced by learned Counsels for both the parties.

12. The central issue in this case revolves around whether there has been a deficiency in service on the part of the Respondents? In this regard, it is uncontested that Shri RC Dixit was an employee of the Respondent Department. It is also undisputed that the said RD account has been confiscated by the Respondent Department due to embezzlement of Rs.5,62,032/- under the Public Accounts Default Act, 1850 in departmental proceedings against Shri RC Dixit. The main grievance is as regards non-release of maturity amount of the said RD A/c which was confiscated even after acquittal. Undisputedly the deceased Complainant RC Dixit was an employee of the Respondent Department and the confiscation of the said RD Account was based of the terms and conditions of service of the deceased RC Dixit, on the orders of Disciplinary Authority of the Respondent Department. His grievance in this regard is liable to be addressed as per procedures laid down within the Respondent Department through an appeal to the Appellate Authority or appropriate judicial forum. With due regard to the nature of the case, applicability of terms and conditions of service, allegations of embezzlement public money, confiscation of assets under the Public Accounts Default Act, 1850 and the death of Shri RC Dixit, the resolution of this matter entails detailed examination of evidence. Therefore, the present dispute does not come within the jurisdiction of Consumer Fora.

13. Based on the aforesaid discussions, I am of the considered view that the detailed and well-reasoned Order of the learned State Commission dated 31.07.2017 does not suffer from any illegality or infirmity which warrants interference of this Commission in revisional jurisdiction. The Revision Petitions No.3383 and 3384 of 2017 are, therefore, **dismissed**.

14. Needless to say, the Complainants have right to approach appropriate legal fora to seek relief in respect of their grievances against the opposite parties. They may also seek benefit of the provisions of Section 14 of the Limitation Act, 1963 in doing so.

15. Keeping in view the facts and circumstances of the present case, there shall be no order as to costs.

16. All pending Applications, if any, also stand disposed of accordingly.

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**AVM J. RAJENDRA, AVSM VSM (Retd.)**

