

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**REVISION PETITION NO. 2388 OF 2019**

(Against the Order dated 30/06/2019 in Appeal No. 358/2016 of the State Commission  
Maharashtra)

1. STANDARD CHARTERED BANK

THROUGH ITS NODAL OFFICER, 90, MAHATMA  
GANDHI ROAD, BEHIND MUMBAI HIGH COURT FORT  
MUMBAI-400001

.....Petitioner(s)

Versus

1. DR. VINOD KUMAR BHALLA

K-40, PALAM COURT COMPLEX, LINE ROAD, MALAD  
WEST

MUMBAI-400064

.....Respondent(s)

**BEFORE:**

**HON'BLE DR. INDER JIT SINGH, PRESIDING MEMBER**

FOR THE PETITIONER : MR. DEVMANI BANSAL, ADVOCATE  
MR. PRATYUS SARANGI, ADVOCATE

FOR THE RESPONDENT : MR. VIRAJ KADAM, ADVOCATE

**Dated : 09 April 2024**

**ORDER**

1. The present Revision Petition (RP) has been filed by the Petitioner against Respondent as detailed above, under section 21 (b) of Consumer Protection Act 1986, against the order dated 30.07.2019 of the State Consumer Disputes Redressal Commission Maharashtra (hereinafter referred to as the 'State Commission'), in First Appeal (FA) No. 358 of 2016 in which order dated 07.01.2016 of South Mumbai District Consumer Disputes Redressal Forum (hereinafter referred to as District Forum) in Consumer Complaint (CC) no. 3 of 2014 was challenged, inter alia praying for setting aside the order dated 30.07.2019.

2. While the Revision Petitioner (hereinafter also referred to as OP) was Respondent before the State Commission and OP before the District Forum, the Respondent (hereinafter also referred to as Complainant) was Appellant before the State Commission and Complainant before the District Forum.

3. Notice was issued to the Respondent on 29.11.2019. Parties filed Written Arguments/Synopsis on 19.01.2023 ( Petitioner) and 07.12.2023 Respondent) respectively. For the sake of convenience, parties will also be referred to as they were arrayed before the District Forum.

4. Brief facts of the case, as emerged from the RP, Order of the State Commission, Order of the District Forum and other case records are that Complainant had an American Express Credit Card having credit limit of Rs.3.20,000/-. On 30.04.2012, complainant received a letter from Mr. Thukral Bali, Operational Head-Credit Services, American Express revising his credit limit which was lowered to Rs.2,48,000/- due to Credit Information Bureau Ltd. (CIBIL) rating. He was shocked and when he obtained the CIBIL score, he found that CIBIL score was affected to OP as OP had shown amount of Rs.1,74,644/- as outstanding against amount of Rs.5640/-. According to complainant, he had duly paid the due outstanding amount of Rs.5640/- to the OP and personally handed over the proof of said payment to the Credit Card Division of the OP at Bangalore. The new Omni Report / statement of transactions of saving account for the period 01.04.2002 to 31.03.2003 shows that amount of Rs.5640/- has been debited from the account of Complainant. On 06.09.2012 complainant lodged a complaint electronically with Nodal Officer. Complainant stated all the facts and enclosed proof of payment to the OP with copy to the Head Service Quality India and South Asia and got the auto reply acknowledgment on the same very day. Complainant did not receive any further communication from OP for the auto acknowledgment mail dated 06.09.2012. On 06.12.2012, complainant approached to the Banking Ombudsman. On 28.12.2012 complainant received a letter from American Express denying Credit Card to him due to CIBIL score. It is the case of the complainant that in response to the letter from the Banking Ombudsman, OP's Nodal Officer at Mumbai forwarded a copy of reply dated 08.01.2013 to the Complainant stating that OP has not received the payment and the amount due is Rs.2,17,019.65 from the Complaint and it was directed that complainant should take up the matter with UTI Bank, with whom the complainant had no relation. . In response to the reply dated 08.01.2013 of the OP, the complainant again sent detailed reply to the Banking Ombudsman on 12.01.2013 and requested for issuing direction to the OP to investigate the matter with Axis Bank and clear the outstanding and status mentioned on his credit record. It is further the case of the complainant that matter could not be closed and it has not been resolved as the small amount of Rs.5640/- which was already paid, has amounted into an outstanding of Rs.2,17,019.65. On 07.03.2013, complainant received letter from ICICI Bank, Vadodara Branch confirming that payment was made to the OP via UTI Bank alongwith copy of cheque which had stamp of OP dated 03.02.2003, IPCMS as well as SCB-BDQ thereby confirming that cheque was received by OP On 03.02.2003 and forwarded to ICICI Bank for clearance through UTI Bank with whom they had IPCMS arrangement. The OP vide their email dated 19.03.213 accepted that the payment has been made and thereafter, Banking Ombudsman by the letter dated 23.03.2013 closed the complaint. Ombudsman found that claim of the complainant was true and closed the complaint. According to the Complainant, he suffered mental pain and agony due to the said act of the OP inspite of payment of due amount well within time. Complainant lodged complaint electronically with Nodal Officer and receiving no reply, complainant sent legal notice to the OP. Even said notice was not replied by the OP. Being aggrieved, the Complainant filed CC before the District Forum and District Forum vide order dated 07.01.2016 dismissed the complaint. Being aggrieved, the Complainant preferred an Appeal before the State Commission and State Commission vide order dated 30.07.2019 allowed the appeal of the Complainant. Therefore, OP is before this Commission now in the present RP.

5. Petitioner has challenged the said Order dated 30.07.2019 of the State Commission mainly on following grounds:
- i. State Commission while adjudicating the appeal, ought to have appreciated that ICICI Bank in its letter dated 07.03.2013 categorically observed that the credit card number mentioned on the cheque leaf was not correct and due to which, the amount of Rs.5640/- alleged to have been paid by the Respondent be kept in suspense account and bare perusal of the letter issued by ICICI Bank clearly indicates that there is no fault on the part of the Petitioner in not crediting the amount on account of wrong mentioning of the credit card number by the respondent himself.
  - ii. State Commission ought to have appreciated that the complaint initially lodged by the respondent to the Nodal Officer of the Respondent vide letter dated 06.09.2012 did not even barely mention about the reduction of credit limit by American Express Banking Corp., which in turn also establishes that the Respondent was never aggrieved on account of reduction of the credit limit by the American Express Banking Corp.
  - iii. State Commission while adjudicating the appeal failed to appreciate that the grievances raised in the consumer complaint by the respondent were not even the grievances of the respondent, when the complaint was filed with the Nodal officer of the Petitioner or at the time of filing the complaint with Banking Ombudsman.
  - iv. There was default in making payment towards the credit card dues by the respondent and in that case, the reporting of defaulter with CIBIL cannot be held to be deficient in providing services.
  - v. State Commission ought to have appreciated that there was no cause of action arose in the month of January, 2014 in favour of respondent for filing a consumer complaint when the grievance raised by way of complaint dated 06.12.2012 filed before the Banking Ombudsman were duly redressed.

- vi. State Commission did not consider the documents filed by the Petitioner before the District Forum.
- vii. Once the compensation has been awarded towards rendering deficient services, then question of awarding another sum of Rs.50,000/- towards compensation for mental pain and agony could not have been awarded.
- viii. Rejection of credit card application by American Express Banking Corp. is the sole discretion of the Bank and none of the letters either dated 30.04.2012 or 28.12.2012 issued by the American Express Banking Corp. anywhere whispered about the reason of rejection being outstanding towards the credit card of the Petitioner. Further, the rejection of application did not even form part of his grievances at the time of lodging complaint with Banking Ombudsman.
- ix. State Commission ought to have appreciated that upon clarification being issued by ICICI Bank vide its letter dated 07.03.2013, the Petitioner immediately waived off all the charges levied in the credit card account of the respondent and closed the said account.
- x. The Respondent never paid a sum of Rs.5,00,000/- to the Petitioner the respondent is claiming with further interest @ 18% p.a.. the alleged payment was only for Rs.5640/-.

6. Heard learned counsels of both sides. Contentions/pleas of the parties, on various issues raised in the RP, Written Arguments, and Oral Arguments advanced during the hearing, are summed up below.

6.1 Learned counsel for the Petitioner apart from repeating the points which have been stated in para 5, argued that complaint to the Banking Ombudsman was duly addressed by the Petitioner and, therefore, no cause of action exists. Ld. counsel has relied on the judgment of Hon'ble Supreme Court regarding punitive damages in **Magma Fincorp Ltd. Vs.Rajesh Kumar Tiwari**, SLP ( C) No. 3372 of 2018.

6.2. Learned counsel for the respondent reiterated almost all the points which have been mentioned in his complaint. Further, he has argued that despite making the payment of credit card dues, the outstanding is shown in the system. This affected the respondent's credit score, which resulted into reduction of credit limit and denial of new credit card. After 10 years of litigation with Petitioner, the Petitioner accepted that they had received the payment and agreed to waive off illegal interest they had charged on the alleged outstanding.

Ld. counsel for the respondent has relied on the judgment of Hon'ble Supreme Court in **Mrs. Rubi ( Chandra) Dutta Vs. United India Insurance Company, 2011 (30 Scale 654.**

7. OP had contended before the State Commission that they did not receive the due payment of Rs.5347.39/- towards credit card as claimed to have been paid on 18.01.2003, as a result there was outstanding amount reflected in the credit card of the complainant, hence the record of the complainant was updated with CIBIL as per procedure. On 18.01.2003, complainant has sent a cheque no. 69131 for Rs.5640.81 to OP's address at Bangalore. The said cheque was duly cleared on 07.02.2003 and same was intimated by e-mail dated 01.03.2003. In spite of payment of due amount, his CIBIL score was affected because OP Bank had shown amount of Rs.1,77,644/- dated 05.07.2012 as outstanding. Subsequently, OP bank vide e-mail dated 19.03.2013 admitted that payment has been made by the appellant during 2003 itself.

8. State Commission, after considering the evidence adduced by both sides came to a finding that the accumulation of outstanding amount was only because of mistake of OP Bank, and the bank is guilty of deficiency in service. State Commission also observed that OP Bank tried to misguide the Banking Ombudsman vide letter dated 08.01.2013. Due to mistake of OP Bank, CIBIL rating was badly affected and Complainant was branded as defaulter, his credit limit with American Express was lowered.

9. We have carefully gone through the orders of the State Commission. It has given a well-reasoned order and we find no reason to interfere with its findings. It has been clearly established that outstanding amounts were wrongly shown in the credit card account of the Complainant, which adversely impacted his CIBIL score. OP Bank ultimately reversed all the wrongful entries towards interest etc. and settled the credit card account. Hence, we uphold the findings of the State Commission with respect to deficiency in service on the part of OP Bank. However, the State Commission has awarded compensation under multiple heads, Rs.2 lacs towards deficient service and Rs.50,000/- towards mental pain and agony. In view of the observations of Hon'ble Supreme Court in **DLF Homes Panchkula Pvt. Ltd. Vs. D.S.Dhanda etc (2019) SCC Online SC 689**, we are of the view that compensation under multiple heads for same deficiency in service cannot be given. Mental pain and agony is on account of deficiency in service. Hence, we modify the order of the State Commission with respect to compensation as follows

10. OP Bank ( Petitioner herein) will pay a total compensation of Rs.2 lacs to the Complainant ( respondent herein) for deficiency in service and mental pain and agony, alongwith litigation cost of Rs.10,000/-. The total amount payable as per this order will also carry interest @ 6% p.a. w.e.f. date of order of State Commission i.e. 30.07.2019. The entire amount should be paid within 30 days failing which, amount due on the expiry of 30 days will carry interest @ 9% p.a. Revision Petition is disposed off accordingly.

11. The pending IAs in the case, if any, also stand disposed off.

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**DR. INDER JIT SINGH**  
**PRESIDING MEMBER**