Before the District Consumer Dispute Redressal Commission [Central District] - VIII, 5th Floor Maharana Pratap ISBT Building, Kashmere Gate, Delhi
Complaint Case No.258/12.07.2016

Mahesh Kumar Chawla (since dead) through
L.R. Smt. Krishna Chawla, widow of Mahesh Kumar Chawla,
r/o H.No.8/6, Old Rajinder Nagar, Delhi …Complainant

Versus

OP. The Post Master, Post Office, Rajinder Nagar,
New Delhi-110060 ...Opposite Party

Senior Citizen's Case
Date of filing: 12.07.2016
Date of Order: 06.02.2025

Coram:
Shri Inder Jeet Singh, President
Shri Ashwani Kumar Mehta, Member/Link Officer

FINAL ORDER

Inder Jeet Singh , President

It is scheduled today for order (item no.3)

1.1. (Introduction to case of parties) -The complainant took two accounts from OP viz. MIS A/c No.199243 for Rs.49,500/- on 20.08.2008, having maturity date of 20.08.2014 (hereinafter referred as 'first account' for the purposes of identifying it at glance) and MIS A/c No.199873 for Rs.30,000/- on 12.08.2008, having maturity date of 12.08.2014 (hereinafter referred as 'second account' for the purposes of identifying it at glance), which were under MIS scheme in the joint name of Smt. Kunti Chawla and Sh. Mahesh Chawla. However, in middle of the scheme, the interest amount on those accounts and also on maturity, the amount was no released. He suffered a lot. That is why the complaint.

1.2. The OP opposed the complaint on all counts that as per their record the first account mentioned was discovered in the name of someone else and similarly the second account was also in the name of some other person. The interest was properly stopped to be paid and there was no reason to return the amount on maturity vis-à-vis departmental in house enquiry was initiated.

1.3. The complainant's mother/joint account holder Ms. Kunti Chawla died on 28.10.2009 and later the complainant had also died on 26.01.2022 during the pending of complainant, his wife Smt. Krishna Chawla filed an application for bringing her name as only legal representative, it was opposed by the OP by way of reply, however, after perusal of record, inquiry and scrutiny of documents referred including Will left by the complainant, the name of Smt. Krishna Chawla was brought as LR of deceased by conditional order dated 27.09.2023, since there delay in bringing the application.

1.4. It is also relevant to mention that the pleadings of the parties are indicating certain events but complete details are not mentioned therein but the detail is available in the documentary record, therefore, the care is being taken in this final order to put the case of each parties by taking holistic view of their entire case so that clarity and brevity is maintained. With this observation the matrix of case of the parties is being mentioned.

2.1. (Case of complainant) –The matrix of case of complainant is that complainant took two schemes of MIS account being the first account and the second account having maturity date of 20.08.2014 and 12.08.2014. The complainant was paid interest upto 01.03.2011 in respect of first account and upto 23.06.2010 in respect of second account. The complainant wrote letter dated 23.11.2012 and three applications (dated 09.09.2014, 09.09.2014 and 01.07.2015) under RTIs but there was no satisfactory reply, response, reason by the OP. Even the complainant approached the Post Master with folding hands but the matured amounts of the MIS accounts were not released. The complainant is consumer and that is why the complaint is filed for appropriate direction for release of interest and also to release the maturity amount with interest under the accounts/MIS , compensation in lieu of suffering of hardship; litigation costs, other appropriate directions to OP to be vigilant in future and the orders which may be deemed fit.

2.2. The complaint is accompanied with documents/copies of – letter dated 23.12.2012, 27.06.2013, 23.05.2013, RTI record of 06.06.2014, reminder dated 12.11.2014 (in respect of first account), 13.06.2014, reminder dated 19.08.2014 and 09.10.2014 (in respect of second account), letter dated 10.10.2014, 29.01.2015, passbook of first account no. JB MIS 199243 and also passbook of other account no. 199873 MIS JB, requests/application for RTI.

3.1 (Case of OP)-The complaint is opposed vehemently that it is a false and frivolous complaint, it is without cause of action besides there was no advance notice served u/s 80 of CPC and complaint without cause of action is not maintainable.

3.2. The complainant has grievances that the first account opened in the joint name but interest was received up-to 01.03.2011 but no interest thereafter, for which he made various representations. Whereas, on inquiry by DO, it is revealed that on the copy of passbook of first account, the account number was altered as 199243 at top in place of account no. 199245 mentioned in subsequent papers vis-à-vis the account was opened on 21.08.2008 but alleged to be of 20.08.2008. Moreover, it is also revealed from the ledger record and specimen signature copy, the account no. 199245 was opened on 21.08.2008 for Rs. 49,500/- and it is in the name of Ms. Kanchan Puri and that was closed on 10.03.2014. The other account no. 199243 was opened on 24.12.2007 for Rs. 49,500/- in the name of Kamal Chopra, in which interest upto 14.12.2007 was received by the account holder, but as per log book copy, the account no. 199243 stands in the name of J. M. Uppal and Kavita Uppal.

Further, complainant also mentions that second account no. 199873 was opened in the joint name of Ms. Kunti Chawla and Mr. Mahesh Kumar Chawla for Rs.30,000/- on 12.08.2008 but in the system of post office, the account stands in the name of other person. The interest was paid upto 23.06.2010 to the complainant but thereafter it was stopped by letter no. L-1/3-42/14-15 dated 13.06.2014. There are withdrawal forms voucher SB-7, signed by Mahesh Kumar Chawla and it was attested by Saving Bank Control Organization, New Delhi, GPO, however, the other documents (viz. specimen signature and ledger copy) are in the name of other person. Moreover, a departmental enquiry is under the process. The complainant is not entitled for any amount.

3.3 The written statement is accompanied with documents/copies of – letter dated 10.10.2014 regarding RTI, correspondence dated 05.08.2015, 05.01.2015, ledger in the name of Kamal Chopra, copy of passbook of account, withdrawal form SB-7, ledger in the name of J.M. Uppal, specimen signature book (to show that account no. 199243 was opened on 17.12.2007 there is signature of Kamal Chopra, account no. 199245 was of 18.12.2007 under the signature of Kanchan Puri, ledger of account of Kamal Chopra and Kanchan Puri, reminder dated 12.11.2014, 29.01.2015 and copies of RTI applications/representation on 09.09.2015, 01.07.2015 of the complainant.

4. (Replication of complainant) – It is brief rejoinder by the complainant to the written statement of OP by reaffirming the contents of complaint as well as by explaining that on 30.10.2014 Sh. Deshraj, Assistant Superintendent of Post Office visited the complainant alongwith Mr. Mahesh stated to be Teller in the Rajinder Nagar Post Office, they took from complainant the two original passbook of the MIS accounts under acknowledgement, the acknowledgement is accompanied with the rejoinder. In addition, when the accounts were opened, the complainant had filled in cash vouchers for each month, there were around 25 vouchers in respect of first accounts and 19 vouchers in respect of second account (viz. 44 vouchers approximately) and it is surprising the complainant that the account opening card, 44 vouchers (approximately) and computer entries in respect of the accounts have gone missing from the OPs. In case those record is traced, the account number can be seen on the vouchers etc. The original passbook was issued under seal/stamp and signature of Post Master, all the entries were also made by them. Moreover, the original pass books were handed over them long back on 30.10.2014 but there is no conclusion of the enquiry till date. (since the replication dated 22.11.2016 under the signature of complainant). The complainant had no accessed to computer and record of OP, therefore, he cannot say anything about accounts in the name of others. The complainant affirms his request in the complaint.

5.1. (Evidence)- In order to prove the complaint, the complainant Shri Mahesh Kumar Chawla, during his life time, led evidence by filing detailed affidavit of evidence with the support of documents.

5.2. Similarly to prove the defence version, the OP also led evidence by filing of detailed affidavit of evidence with documents of Shri B.S.Umesh.

6.1 (Final hearing)- At this stage, the parties filed their written arguments. Moreover, the complainant also filed supplementary arguments too, as per developments took place like departmental/in-house inquiry conducted by the office of OP was concluded and certain records were obtained, the same were updated. Similarly, OP also filed some additional record in support of written arguments, to supplement the oral submission.

6.2. The parties were also given opportunity to make oral submissions, then Shri Ashok Priyadarshi, Advocate for the complainant/LR and Shri Indu Shekhar, Advocate for OP (with Shri Sanjay Bora, Postal Assistant) made their oral submissions.

6.3. Since at the stage of final hearing, the departmental inquiry was referred, the same is not disputed. However, to what extent it would be relevant, it is matter of weighing and appreciation.

7.1 (Findings) - The case of the parties, their contentions and material on record are considered and assessed besides the provisions of law.

7.2.1 The OP has taken the objection that the complaint is barred by law for want of advance service of notice u/s 80 CPC being legal requirement that notice is to be served before filing the case, it is equally opposed by the complainant that this complaint is not civil suit nor there is any requirement to serve advance notice prior to filing of the consumer complaint.

7.2.2 On plain reading of provisions of Consumer Protection Act 1986, there no requirement of advance notice prior to filing of the complaint. In fact, the Act, 1986 is a specific piece of legislation, meant for settlement of consumer disputes, therefore, rights and obligations of the parties are to be by virtue of the Consumer Protection Act 1986. When it is a specific legislation, the provisions of the Act 1986 are to be applied and it does not mandate for advance notice [alike notice u/s 80 of CPC being general law meant for specific purposes].

7.3.1 The OP took another objection that complainant is not 'a consumer' to file the complaint under the Act 1986, the preliminary objection no. 3 of the written statement has been referred. Whereas, the complainant opposes this contention of OP that although the objection has been taken by the OP in the written statement but it has not been established or shown how the complainant is not consumer by availing the services of OP.

7.3.2 On perusal of the record and also during the final hearing, it has not been elaborating as to how the services being rendered by the OP are not covered under the definition of Section 2(o) of the Act 1986 or as to how complainant is not a consumer when availing the services of OP. Moreover, by reading the definition of service with the definition of consumer, discussed in Lucknow Development Authority Vs. M. K. Gupta (AIR 1994 SC 787), the contention of OP carries no weight and it is held that the complainant is a consumer. He has locus-standi to file the complaint.

7.4 So far other features/disputes of the case are concerned, after considering the material on record [either in the form of pleadings of the parties or their evidence or written submissions and further undsiputed documents surfaced at the stage of final hearing, especially the record of enquiry dated 14.08.2018 by the Department of Posts, Meghdoot Bhawan, New Delhi and divisional level investigation report dated 26.12.2018, which are undisputed record], its analysis and assessment, the following conclusion are drawn:-

(i) The original passbook of both accounts were collected by the OP from the complainant, for which acknowledgement was also issued by the recipient officers. In the inquiry report as well as in the investigation report, the original passbook, pertains to OP, were issued by concerned staff/department of OP.

(ii) The OP took the objection that there is overwriting of account no. 199243 (in respect of first account) on the first page in place of actual account no. 199245, which number is appearing on subsequent pages of the passbook. Secondly, the date of issue is 21.08.2008 is appearing in the stamp for account no. 199245, it is not 20.08.2008. However, this plea does not carries merit as date of maturity of 20.08.2014 is also mentioned vis-à-vis the date is also mentioned at the place of seal and signature of post master [but it is illegible]. Moreover, on the first page the date of issue of 20.08.2008 is also mentioned.

Similar is the pattern in respect of second account the date of issue is mentioned is 12.08.2008 and maturity is 12.08.2014 but the date inside the seal of the Post Office is illegible.

(iii) On the merit of the case, the OP took various objections in the written statement and the same were followed as it is in the evidence, however, in report dated 14.08.2018 by the Department of Post, the statement of concerned Dealing Assistant Sh. Mahesh Kumar was recorded in reference of various accounts. The departmental action was also recommended since he was put under suspension by office order dated 15.05.2012 besides issuing charge-sheet by another order dated 18.10.2012. In the divisional level investigation report dated 26.12.2018, which confines to the first account and the second account, it was discovered that said dealing assistant Mahesh Kumar was issuing the multiple passbook to various depositor with the same account number which were already in the other names in the record. Ld. Counsel for complainant has also emphasized paragraphs 4 & 5 of that report, being relevant the same are reproduced as follows:-

"4. It has already been established that the then MIS counter PA Sh. Mahesh Kumar was issuing multiple pass book to various depositor with same account numbers which already stand in records for some other depositors and managing himself making regular interest payment entries in these fraudulently prepared pass books. The said case is also related to multiple issuance of pass books for same account numbers hence not reflected in the relevant available records of Rajender Nagar PO and New Delhi HO. Since, the then PA MIS counter Sh. Mahesh Kumar has been expired and concerned APM (counter) Sh. Jai Kishore reported to have been retired from Govt. service; the case can be settled on the basis of original pass books available with the claimant Sh. Mahesh Kumar Chawla".

"MODUS OPERANDI - In this particular case the then MIS counter PA Sh. Mahesh Kumar was issuing multiple pass books to various depositor with same account number which already stand in records for some other depositors and managing himself making regular interest payment entries in these fraudulently prepared pass books. The initial amount deposited in both the MIS accounts for Rs. 49,500/- and Rs. 30,000/- alleged to have been pocketed by the then MIS counter PA but issued multiple pass book to Sh. Mahesh Kumar Chawla and further managed to make regular interest payment entries in these fraudulently prepared pass books of account no.-199243 & 199873"

(iv) The inquiry reports are not challenged by the OP, there is also recommendation to settle the dispute on the basis of original pass book entries. The pass books have already been collected by the OP from the complainant but accounts were settled. It could have been settled by the OP long-back on the basis of these recommendation in the report dated 26.12.2018, [although at the time of filing written statement in October 2016, the report was not available].

(v) It is an admitted case of the OP that after surfacing of certain facts, the complainant was not paid interest from 01.03.2011 in respect of first account and interest w.e.f. 23.06.2010 in respect of second account.

(vi) It is crystal clear from own investigation and in housing enquiry that many depositors were issued pass books by the dealing assistant by getting deposit of the amount subsequently but assigning existing account number, the passbook were issued in original of the OP with account number, deposits and then entries of monthly interest but for all these reasons the complainant cannot be blamed for since it is exclusive modus operandi of the employee of OP, there is no element involved on the part of complainant.

(vii) The complainant had received the interest for some period in respect of the first account and the second account, there was bona-fide on the part of complainant as he deposited the amount in both accounts, he was issued pass book for each account and there was no criteria available with the complainant to verify the account numbers (whether or not it is repeat of other number), since it is the internal matter of the OP of maintaining account numbers and record vis a vis there was no reason for the complainant to do that exercise of verifying the account number.

(viii) When the complainant was not paid the interest in respect of both the accounts and subsequently maturity amount despite requests, written letters as well as RTI applications, it caused uncertainty and for want of releasing the amounts, it was short of services and deficiencies besides causing him harassment.

9.1. So in view of aforementioned discussion and conclusions, it is held that the complainant has succeeded to establish the case against OP of deficiency in services and of unfair trade practice. Had there been no deficiency in services and unfair trade practice, the complainant would not have been deprived of interest and deposit amounts of Rs.49,500/- and Rs.30,000/- on its maturity and interest from time to time thereon. The complainant is entitle for return of this amount of Rs.49,500/-[MIS A/c No.199243 JB] and Rs.30,000/- [MIS A/c No.199873 JB].

9.2. The complainant claims interest, however, no rate of interest is specified in the complaint. The amounts are pertaining to MIS accounts to that interest is earned. Since the complainant was being paid interest on both amount, but subsequently dispute arisen but now the complainant is held entitled for that amount, therefore, complainant is also entitled for interest. Now question is what would be reasonable rate of interest? Is any criteria or guidelines are available to consider it appropriate to the situation?.

Since the complainant was being paid interest of Rs.330/- pm (= annual interest of Rs.3,960/-) on amount of Rs.49,500/- and Rs.200/- pm (= annual interest of Rs.2,400/-) on amount of Rs.30,000/-. This interest rate comes to 8%pa. Simply, the complainant would have earned interest of 8%pa, during that tenure accounts of MIS as well as it can be considered for subsequent period after maturity on parity basis, thus simple interest @ 8%pa from 01/03/2011 and 23.06.2010 [being dates of non-payment of interest] till realisation of amounts are allowed in favour of complainant and against OP. However in terms of conditional order dated 27.09.2023 the delayed period of 05 months and 27 days (for application for bringing LR) will be excluded for the purposes of computation of interest. It will meet both ends of justice..

9.3. The complainant seeks compensation in lieu of sufferings, inconvenience & harassment but without specifying the amount of compensation. There are two MIS accounts- (i) for Rs.49,500/- and (ii) for Rs.30,000/-, these accounts were opened in the post office under the faith and trust as well to have better interest option besides the amount will remained secure, however, only that belief of complainant was shattered but also the complainant suffered a lot without any fault on his part and fault lies with officials of the OP. The complainant had also persuaded and cooperated the OP with all assistance and information including handing over the original passbook to the department of OP but woe of the complainant was not redressed, he had to run from pillar to post to protect for return of his money, he suffered inconvenience, harassment, mental agony, thus considering these circumstances and in order to meet both ends, the damages are quantified as Rs. 20,000/- in favour of complainant and against the OP.

9.4. The complainant also seeks cost of litigation but without specifying the amount. The complainant has narrated the episode of events faced, the repeated requests, reminders, RTI applications, waiting for outcome but complaint was filed as last resort. The cost is also quantified as Rs. 15,000/-in favour of complainant and against OP.

10.1. Accordingly, the complaint is allowed in favour of complainant/LR and against the OP to return/pay a sum of Rs.49,500/-[MIS A/c No.199243 JB] along-with simple interest of 8% p.a. from 01/03/2011 and further to pay Rs.30,000/-[MIS A/c No.199873 JB] along-with simple interest of 8% p.a. 23.06.2010 [being dates of non-payment of interest] till realisation of amounts [but by reducing the period of 05 months and 27 days for calculation of interest component], apart from compensation of Rs.20,000/- & costs of Rs.15000/- within 45 days from the date this order.

In case, the amount is not paid within 45 days from date of this order, then rate of interest will be 10% pa.

11. Announced on this 6th day of February 2025 [□□□ 17, □□□□ 1946]. Copy of this Order be sent/provided forthwith to the parties free of cost as per rules for compliances, besides to upload on the website of this Commission.

[Ashwani Kumar Mehta]
Member/Link Officer

[Inder Jeet Singh]
President

[ijs25]

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