TIRUMALA TIRUPATI DEVASTHANAM V. THE DIRECTOR GENERAL OF POSTS & ORS.

1. TIRUMALA TIRUPATI DEVASTHANAM
Rep. By ITs Executive Officer,
Tirupati -517 502,
Chittoor, Andhra Pradesh.

………..Complainant(s)

Versus

1. THE DIRECTOR GENERAL OF POSTS & ORS.
Department of Posts, Dak Bhavan,Sansad Marg,
New Delhi – 110 001.
2. SUPERINTENDENT OF POST OFFICE,
Tirupati-517 501,
Chittoor District,
Andhra Pradesh.
3. THE POST MASTER,
Tirupati Head Post Office., Tirupati-517 501
Chittoor District,
Andhra Pradesh.
4. THE POST MASTER GENERAL
Department of Posts, Kurnool Region,
Kurnool-518 002,
Andhra Pradesh.
5. GOVERNMENT OF INDIA,
Rep. by its Secretary of Govt., Ministry Of Finance, Department
Of Economic Affairs,
Central Secretariat, North Block,
New Delhi – 110 001.

………..Opp.Party(s)

Case No: CONSUMER CASE NO. 288 OF 2011

Date of Judgement: 11 Jan 2023

Judges:

HON’BLE MR. C. VISWANATH,PRESIDING MEMBER
HON’BLE MR. SUBHASH CHANDRA,MEMBER

For the Complainant : Mr Guntur Prabhakar, Advocate
For the Opp.Party : Ms Saroj Bidawal Bansal, Advocate

Facts:

Tirumala Tirupati Devasthanam (TTD) invested Rs 29 crores in Post Office Time Deposits and Rs 41.72 crores in Kisan Vikas Patras (KVPs) between 2000-2004. In 2005, Post Office informed that as per amended rules in July 2005, accounts by Trusts need to be closed. In 2007, TTD was informed that the KVP investments were irregular as per KVP Rules 1988. No interest would be paid on them. TTD was later asked to apply for regularisation of the irregular KVP investments. In 2010, interest rate on savings bank account was extended to the irregular deposits of TTD based on approval from Ministry of Finance. TTD has alleged deficiency in service as it was paid lower rate of interest than what it was entitled to on the investments.

Arguments:

Complainant:
Entitled to get 7.5% interest on Time Deposits amounting to Rs 11.18 crores. Paid only Rs 5.07 crores. On KVP investment, entitled for Rs 81.79 crores. Paid only Rs 53.59 crores. Seeking balance interest amounts with 18% interest.

Opposite Parties:
No deficiency in service. Investments were irregular based on TTD’s ineligibility. Due approvals taken to regularize and allow savings bank interest rate on deposits. Paid as per

applicable rules and government instructions.

<u>Sections:</u>
Section 21 of Consumer Protection Act 1986

<u>Cases Referred:</u>
Post Master, Dargamitta HPO, Nellore Vs. Raja Prameelama. TTD Employees Co-operative Credit Society Ltd. Vs. Superintendent of Post Offices, HPO, Tirupati & Ors. Arulmighu Dhandavudha Paniswamy Vs. Director General of Post Office & Ors

<u>Court's Observations and Decision:</u>

This case different from previous TTD Employees society case which involved employee welfare funds. Here the funds were TTD's surplus funds. Rules do not permit concessions to religious trusts on savings investments. Interest rates credited were as per Rule 17 and government instructions. No deficiency in service. Post office took approvals to extend savings interest rates wherever applicable. Judgements by Supreme Court in earlier similar matters have held no deficiency in such cases. No merit found in the complaint. Complaint dismissed.

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Full Text of Judgment:

1. This complaint has been filed under section 21 of the Consumer Protection Act, 1986 (in short, the 'Act') alleging deficiency in service by the opposite party in crediting a lower rate of interest on the investments and deposits made by the complainant with the opposite party.
2. The facts of the case, as stated by the complainant, are that the complainant, the Tirumala Tirupati Devasthanam (TTD) is a statutory organization governed by the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 which manages the affairs of the Sri Venkateswara

Swamy Temple in Tirumala, district Chittoor, Andhra Pradesh. The TTD was construed to be a Public Trust by the Central Board of Direct Taxes which granted exemption under section 10 of the Income Tax Act. It is stated by the petitioner that the Government of Andhra Pradesh issued an order instituting cash incentives for investments in various instruments of small savings with the Post Office on 24.06.1995. The Director of Small Savings & State Lotteries, Govt. of AP requested the Executive Officer, TTD to invest in small savings vide letter dated 17.09.1997. Accordingly, between May 2003 to February 2004, the TTD deposited Rs 29 crores in 11 accounts under the Post Office Time Deposit Account in Tirupati for a period of 5 years at 7.5% rate of interest per annum. Earlier, Rs 41,72,16,000/- was invested between October 2000 to March 2003 in Kisan Vikas Patras (KVP) on different dates in varying amounts.

3. On 17.12.2005 the Post Master, Tirupati Post Office intimated that the Ministry of Finance had amended the Post Office Saving Account Rules on 27.07.2005 prohibiting accounts by certain categories including Trusts and that such accounts needed to be closed by 31.12.2005. The TTD sought a clarification from the Post Master whether the amendment applied to SB Accounts or included other deposits such as Term Deposits, KVPs, etc. On 28.04.2007 the Post Master, Tirupati informed that the KVPs were issued irregularly in contravention of rule

6 of the KVP Rules, 1988 and should be encashed at the earliest and that no interest would be payable. Upon taking up of the matter with the Superintendent of Post Offices, Tirupati, TTD was informed on 31.01.2008 to submit details in order to escalate the issue for a decision. However, on 19.06.2008 the Post Master, Tirupati conveyed that TTD could withdraw the principal and interest on Term Deposits involving TTD Pension, Gratuity and GPF Funds and the principal funds relating to the TTD’s surplus funds. The Post Master, Tirupati advised TTD on 03.07.2008 to apply for the regularisation of the KVPs which was done.

4. The Assistant Director, Kurnool recommended regularisation of the irregular investment to the Director of Postal Services, New Delhi on the ground that such investments were due to the ignorance of rules by officials of the Post Office against whom action was taken and the the TTD should not be penalised. This letter is cited as evidence of the fault of the Postal Authorities in accepting such deposits. The Post Office rate of interest on SB accounts was extended by the Superintendent of Post Offices, Tirupati through his letter dated 15.04.2010 on the irregular deposits of TTD as per approval of the Ministry of Finance vide letter dated 05.04.2010. The complainant’s case is that this rate of 3.5% per annum is unjustified as the rate of interest on Time Deposit accounts is 7.5% p.a. which it accepted ‘under protest’ on 07.09.2010.
5. The complainant has contended that on the deposits in Time Deposits of Rs 29 crores in 11 accounts between May 2003 to February 2004 the TTD was entitled to Rs 11,18,47,005/- as interest at 7.50% per annum whereas it was paid only Rs 5,07,50,000/-. It claims that it is entitled to Rs 6,10,97,005/- in addition to the interest it accepted under protest. It is also contended that on the investment in KVPs of Rs 41,72,16,000/-, it was entitled for an amount of Rs 81,79,28,900/- whereas it was paid only Rs 53,59,66,789/- and therefore needs to be compensated for the difference. A total amount of Rs 34,30,59,116/- along with interest is due to it from the postal department according to the complainant who is before this Commission with the following prayer:
(a) direct the opposite parties to pay a sum of Rs 6,10,97,005/- towards the balance amount of interest on the investments made in Time Deposit accounts
(b) direct the opposite parties to pay a sum of Rs 28,19,62,111/-, the balance of matured amount on the investments made in Kisan Vikas Patras
(c) direct the opposite parties to pay the above said sums with 18% interest from the respective dates of majority of the deposits

And

(d) pass such other order or orders or directions as this Hon'ble Commission may deem just and proper in the facts and circumstances of the case in the interest of justice.

6. The complaint was resisted by the opposite party by way of reply. It is contended that there has been no deficiency in service as alleged. The Ministry of Finance decided to discontinue investments by institutions in KVPs and Post Office Time Deposit accounts from 01.04.1995. As the investments by the TTD, which is not a registered Trust, were found to be in contravention of the instructions of the Ministry of Finance, efforts were made by the Postal Department to regularise the deposits. Based on the approval dated 11.03.2010 to allow the Post Office Savings Bank rate of interest on the irregular deposits of TTD, 3.50% rate of interest per annum was paid in respect of the Time Deposits and the KVPs. At the time of effecting payment, the excess interest paid on the Time Deposit accounts were recovered by the opposite party. It is contended that the amounts deposited by TTD from its surplus funds did not indicate that the amount belonged to a charitable Trust which is registered as a Charitable Trust/Institution. It is submitted by the opposite party that a Trust loses its status if it objectives are for a particular religion. It is contended by the opposite party that the cash incentives provided by the Government of Andhra Pradesh were for investments in small saving instruments by eligible Trusts. As a religious Trust, the TTD was therefore excluded.

7. As per the rules for Time Deposit accounts, funds belonging to Pension, Gratuity and Provident funds are permitted to be invested under 'Group Accounts' category. Therefore, full interest was given to TTD in respect of deposits under this category. However, since the surplus funds of the TTD deposited under Time Deposit accounts do not fall under the Group Accounts category and are also not funds of a registered trust, such accounts were not entitled for the higher rate of

interest. The Time Deposit accounts which were found to have been opened in contravention of instructions were treated as Savings Bank accounts and the rate of interest applicable there on was credited to such accounts. It is the case of the opposite party that there was no deficiency in service and that the interest credited to deposits by the complainant were as per extant rules and instructions of the Government of India.

8. Parties led their evidence and filed written arguments. We have heard the learned counsel for both the parties and considered the material on record carefully.

9. On behalf of the complainant, the learned counsel relied upon the order of this Commission in TTD Employees Co-operative Credit Society Ltd. Vs. Superintendent of Post Offices, HPO, Tirupati & Ors. FA no. 123 of 2010 which considered an appeal against an order of the State Consumer Disputes Redressal Commission, Andhra Pradesh (in short, ‘State Commission’). The State Commission’s order dated 17.01.2013 had dismissed the complaint relying on the judgment of the Hon’ble Supreme Court dated .01.05.1995 in Post Master, Dargamitta HPO, Nellore Vs. Raja Prameelama (1998) 9 SCC 706 that held:

Inadvertent omission on the part of clerical staff of Post Office to correct the old rate of interest end maturity value on the NSCs which were sold after the issuance of set notification, held, did not amount to deficiency in service.

This Commission relied upon its order in RP 2651 of 2007 wherein the Post Office on a direction of this Commission had obtained approval of the Ministry of Finance and paid interest at the Post Office rate of interest.

10. Learned counsel for respondent has relied upon Rule 17 of the Post Office Saving Banks General Rules, 1981 which reads:

Rule 17: Accounts opened in contravention of Rules:- Subject to the provisions of rule 16, where in account is found to have been opened in contravention of any relevant rule for the time being in force and applicable to the accounts kept in the Post Office Savings Bank, the relevant Head Savings Bank may, at any time, cause the account to be closed and the deposits made in the account refunded to the depositor without interest. It is argued that there was no breach of promise or trust by the Post Office. Reliance is placed on the judgment of the Hon’ble Supreme Court in Post Master, Dargamitta HPO, Nellore (supra) wherein it has been held that As regards the contract no doubt the sale of National Savings Certificate with the terms and conditions embodied thereon constitutes a contract between the Government of India as seller and the holders of the National Savings Certificates. But as this contract was contrary to the terms notified by the Government of India and this was due to inadvertence of the staff, in my opinion it does not become a contract binding the Government of India being unlawful and void. As such this is not a case of deficiency in service either in terms of law or in terms of the contract as defined in section 2(1)(g) of the Consumer Protection Act, 1986. He also relied upon the Hon’ble Supreme Court’s judgment dated 13.07.2013 in Arulmighu Dhandavudha Paniswamy Vs. Director General of Post Office & Ors. in CA No. 4995 of 2006 III (2011) CPJ 25 (SC) where it was laid down that

“Since the deposits in the case on hand relates to Post Office Deposit Accounts, Rule 17 of the Rules is squarely applicable…..Though the appellant claimed interest and insisted for the same on the ground of deficiency in service on the part of Post Master, Palani, in view of Rule 17, the respondents are justified in declining to pay interest for the deposited amount since the same was not permissible. In the light of Rule 17 of the Rules, as rightly concluded by the State and the National Commission, it cannot be held that there is deficiency in service on the part of respondents in particular.”

11. The contention of the learned counsel for the complainant on the basis of this Commission having held that the inadvertent mistake of the clerical staff of the Post Office should not be held to be a reason to deny the complainant its entitlement to the Post Office rate of interest in TTD

Employees Co-operative Credit Society Ltd. (supra) has been considered. It is evident that this case is entirely distinguishable from the instant case since it pertains to funds of a co-operative credit society for the welfare of employees of the TTD. The funds in the instant case are surplus funds of the TTD which has been stated by the complainant to be a statutory organization governed by the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. It is also evident from the submissions of the opposite party which have not been denied by the complainant that the Postal authorities took up the matter with the Ministry of Finance, Government of India and on that basis allowed the Post Office rate of interest (7.50%) on Time Deposits and KVPs pertaining to Pension, Gratuity and Pension Funds as per Rules since they fall under the ‘Group Accounts’ category. However, the same provision could not be extended to the funds that were admittedly ‘surplus’ with TTD on the ground that the Rules did not permit such concession to Trust funds when the Trust was not eligible.

12. In view of the foregoing, it is evident that the rate of interest credited to the Time Deposits and KVPs of the complainant involving surplus funds have been treated as irregular accounts and considered eligible to interest at 3.50% per annum rate of interest. This is as per Rule 17 of the Post Office Saving Banks General Rules, 1981 and the instructions of the Government of India pertaining to Trusts. There is no deficiency in service as has also been held by the Hon’ble Supreme Court in Raja Prameelama (supra) and Arulmighu Dhandavudha Paniswamy (supra). For these reasons we do not find merit in the complaint. The same is accordingly dismissed with no order as to costs.