

**BEFORE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, KULLU (H.P.)**

Complaint No.: 13/2019
Date of Institution: 26.02.2019
Decided on : 20.10.2023

Shri Jagan Nath S/O Shri Shetu Ram,
R/O village Nathan, P.O. Bhekhali,
Tehsil and District Kullu, HP.

.....Complainant

Versus

1. BHIM APP NPCI-1001A, B-Wing, 10th Floor,
The Capital, Bandra-Kurla Complex, Bandra (East),
Mumbai-400051.
2. State Bank of India, Solan Branch, District Solan
through its Branch Manager.

.....Opposite parties.

**Complaint under Section 12 of the
Consumer Protection Act, 1986.**

Coram:

Sh.Purender Vaidya, President.
Ms. Pooja Gupta, Member.

For the complainant: Sh. Raj Kumar, Advocate.
For the opposite party No.1: Sh. Chuneswar Thakur, Advocate.
For the opposite party No.2: Sh. Shubham Sethi, Advocate

ORDER:

This complaint under Section 12 of the Consumer Protection Act, 1986 has been filed by one Shri Jagan Nath (hereinafter referred to as the complainant) against the opposite parties stating that he was having two savings bank accounts. One account is in State Bank of India, Solan (SBI), whereas, the another account is in Punjab National Bank, Sultanpur, Kullu (PNB). On 7th October, 2018, the complainant transferred ₹20,000/- from SBI account to PNB account through BHIM APP i.e. the opposite party No.1 vide transaction ID No.828021413212. However, the transaction could not be completed for the reason that the system of beneficiary bank was off-line. Consequently, on 08.10.2019 the

complainant again transferred ₹20,000/- from SBI account to PNB account, but the said transaction failed for the reason that the funds were insufficient in his SBI account. The complainant inquired and came to know that the amount of ₹20,000/- stood transferred automatically on 08.10.2018 through opposite party No.1, but the said amount was not credited in the transferee PNB bank account. So, the complainant made a written complaint to the office of the opposite party No.1, but nothing was done. The complainant alleged deficiency in service on the part of the opposite party No.1. Hence, the present complaint was filed with the prayer that opposite party No.1 be directed to refund the amount of ₹20,000/- to the complainant. The complainant also prayed for compensation to the tune of ₹50,000/- on account of mental tension, harassment etc. and litigation cost to the tune of ₹3,000/-.

2. It is relevant to state here that initially the complaint was decided ex-parte by our learned predecessor vide order dated 25.06.2019. The opposite party assailed the said order before the Hon'ble HP State Consumer Disputes Redressal Commission, Shimla vide First Appeal No.36/2020 and the same was allowed. The ex-parte order was set aside and the opportunity was granted to the opposite party No.1 to file reply and the case was remanded back with the direction to decide the complaint afresh. As a result, the complaint was received and both the opposite parties file replies.

3. The opposite party No.1 contested the complaint by filing a reply, wherein, preliminary objections as to maintainability, no deficiency in service, no cause of action, no specific allegation against the opposite party No.1 and want of necessary party were raised. On merits, it was not disputed that the complainant had transferred ₹20,000/- through opposite party No.1 from his one saving bank account in SBI, Solan to another saving bank account in PNB, Sultanpur, Kullu. In fact, there was some technical defect in the system in the transferee bank, for the same opposite party No.1 could not be held liable. The opposite party No.1 further stated that it was opposite party No.2, who could explain about the transaction

in question because as per original transaction status the amount of ₹20,000/- was successfully transferred and thereafter, the same amount was reversed in the saving bank account of the complainant in SBI, Solan. The opposite party No.1 revealed the details of both the said transactions. So, in the light of aforesaid facts, it was stated that the opposite party No.2 could explain as the opposite party No.1 was having no excess in the bank account as well as system of opposite party No.2. The complaint of complainant was properly processed and the ombudsman of opposite party No.1 did not find any fault at the end of the opposite party No.1. Consequently, the opposite party prayed for dismissal of the complaint.

4. The opposite party No.2 in its reply did not dispute the facts stated by the complainant. The opposite party No.2 only followed the instructions of complainant. There was no deficiency in service on the part of the opposite party No.2 as the transaction failed. The amount of ₹20,000/- was not credited in the bank account of the complainant in PNB, Sultanpur, Kullu. However, the same was debited from the bank account of complainant in SBI, Solan i.e. opposite party No.2. The transaction was done through opposite party No.1. So, the opposite party No.2 pleaded no fault and prayed for dismissal of the complaint.

5. No rejoinder has been preferred by the complainant.

6. Both the parties have led evidence in support of their contentions.

7. We have heard learned counsel for the parties and have gone through the record of the case carefully.

8. After due consideration, we find substance in the plea raised by the complainant that there is deficiency in service on the part of the opposite party No.1. So, the complainant is only entitled to the relief against the opposite party No.1. In our opinion, the opposite party No.2 is not at fault as there is no deficiency in service on the part of the opposite party No.2.

9. On behalf of the complainant, he has filed his affidavit, wherein, he has deposed all the facts as stated in the complaint.

The complainant has also tendered in evidence the copy of relevant statement of his bank account as well as copy of correspondence made by him. The complainant has also filed in evidence the copy of legal notice sent to opposite parties No.1 & 2 and reply given by opposite party No.1.

10. The opposite party No.1 has filed an affidavit of its authorized representative Shri Dilip Asbe, Managing Director and Chief Executive Officer, wherein, he has deposed that there is no fault on behalf of the opposite party No.1 as the entire transaction was done by the opposite party No.2 and the opposite party No.1 was having no excess to the system of opposite party No.2. The transaction of ₹20,000/- was initially shown complete, but subsequently, the amount of ₹20,000/- was reversed in the bank account of complainant in SBI, Solan. The affidavit also revealed the particulars of both the transactions. On behalf of opposite party No.2, no evidence was led.

11. In the light of pleadings as well as evidence of the parties, the undisputed facts are that complainant Shri Jagan Nath has got two savings bank accounts i.e. one account is in State Bank of India, Solan and another account is in Punjab National Bank, Sultanpur, Kullu. On 07.10.2018, the complainant transferred ₹20,000/- from SBI, Solan account to PNB, Sultanpur, Kullu account through BHIM APP i.e. the opposite party No.1 and that transaction failed due to technical defect at the end of PNB, Sultanpur, Kullu because the system was off-line. So, the complainant again transferred ₹20,000/- from SBI, Solan to PNB, Sultanpur, Kullu on 08.10.2018 and came to know that transaction failed due to insufficient funds in the SBI, Solan account. On inquiry, the complainant came to know that ₹20,000/- were automatically transferred from his SBI, Solan account on 08.10.2028 vide reference No.4898923162097 through application of opposite party No.1 having transaction ID No.828021413212. The complainant has filed on record his statement of account of SBI, Solan revealing that ₹20,000/- was debited from his bank

account on 08.10.2018. Since the transfer was effected through an application of opposite party No.1. So, it was opposite party No.1 to explain how on 08.10.2018 the amount of ₹20,000/- was shown to have been debited when the said transaction failed due to insufficient funds in the SBI, Solan bank account of the complainant. It goes to suggest that the transaction, which was earlier done on 07.10.2018 shown to have been failed due to technical defect at the end of beneficiary bank i.e. PNB, Sultanpur, Kullu, was ultimately shown to be completed on 08.10.2018, but fact remains that this amount of ₹20,000/- has not been credited in the bank account of the complainant maintained in PNB, Sultanpur, Kullu. The complainant has filed on record the relevant copy of statement of account of PNB, Sultanpur, Kullu.

12. So, in the light of the aforesaid facts, it was the obligation of opposite party No.1 to explain how the amount of ₹20,000/- shown to have been debited from the saving bank account of complainant maintained in SBI, Solan. Here, the plea/stand taken by the opposite party No.1 is relevant. It is the case of the opposite party No.1 that when the complaint from the complainant was received, it was processed and dealt properly and on inquiry, it was found that amount of ₹20,000/- was reversed in SBI account of the complainant. On behalf of opposite party No.1, the particulars of original transaction debiting the amount of ₹20,000/- and thereafter receiving back the same on reversal transaction have been filed. The ID of transaction is shown having No.828021413212 of both these transactions, but it has not been explained by the opposite party No.1 vide aforesaid ID, where this amount of ₹20,000/- has gone because the relevant statement of account of the complainant maintained in SBI, Solan is revealing that the amount of ₹20,000/- has not been received back. That means, the plea of reversal of ₹20,000/- of opposite party No.1 is not proved. But it is also not disputed by the opposite party No.1 that initial transaction of ₹20,000/- failed due to some technical defect at the end of PNB, Sultanpur, Kullu on 07.10.2018. It is not explained by the opposite

party No.1 how the said transaction was shown to be complete on 08.10.2018 as on 08.10.2018 when the complainant again tried to transfer the aforesaid amount, the transaction was shown to have failed due to insufficient funds in the bank account of the complainant in SBI, Solan. The complainant was using the server and application of opposite party No.1. So, it was upon the opposite party No.1 to explain it. On one hand the opposite party No.1 is saying that its system was revealing the transaction failed due to insufficient funds on 07.10.2018 and on the other hand, the transaction was shown to be complete on 08.10.2018 itself. That means there was some defect in the system/server of the opposite party No.1 and for the same, the opposite party No.2 cannot be held liable. As discussed hereinabove, it is the plea of the opposite party No.1 that the amount of ₹20,000/- shown to have been transferred/debited was ultimately credited/reversed in the same bank account of the complainant maintained in SBI, Solan. In fact, the complainant did not receive back the aforesaid amount, as his statement of account of SBI, Solan is not reflecting that the amount of ₹20,000/- was received back by him.

13. The transaction in question was done by using the server of opposite party No.1. So, there is no fault of opposite party No.2 in any manner whatsoever. The opposite party No.2 only obeyed the command/direction of its customer i.e. complainant. The fact remains that the opposite party No.1 was the service provider and it was obligation and duty of the opposite party No.1 to complete the transaction.

14. Since the transaction has failed and the amount of ₹20,000/- has been debited from the saving bank account of the complainant maintained in SBI, Solan and he did not receive back the said amount and at the same time, said amount was not received in the transferee bank account, therefore, the deficiency in service on the part of the opposite party No.1 stands proved. For the aforesaid reason, the opposite party No.2 cannot be held liable and

the complainant is not entitled to get any relief against the opposite party No.2.

15. Consequently, in the light of our aforesaid discussion, the present complaint is dismissed against the opposite party No.2 and allowed against the opposite party No.1 only to the effect that opposite party No.1 is directed to pay the amount of ₹20,000/- to the complainant along with interest @ 6% per annum from the date of filing of the complaint till realization/deposits. The opposite party No.1 is further directed to pay ₹5,000/- as compensation on account of mental tension and harassment and also ₹3,000/- as litigation expenses to the complainant. With these observations, the present complaint stands disposed of.

16. Copy of this order be supplied to the parties free of cost as per Rules.

17. File, after its due completion be consigned to the Record Room.

Announced on this the 20th day of October, 2023.

(Purender Vaidya)
President

(Pooja Gupta) Member

Ramesh