

IN THE SUPREME COURT OF INDIA
EXTRA-ORDINARY APPELLATE JURISDICTIONSPECIAL LEAVE PETITION(C) DIARY NO.24842 OF 2021

Nandlal Lohariya

...Petitioner

Versus

Jagdish Chand Purohit and others

...Respondents

ORDERM.R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the National Consumer Disputes Redressal Commission, New Delhi (hereinafter referred to as the 'National Commission') dated 25.11.2019 in Revision Petition No. 380/2019 and order dated 07.01.2020 passed by the learned National Commission in Review Application No. 348/2019 in Revision Petition No. 380/2019, by which the learned National Commission has dismissed the said revision petition and has confirmed the orders passed by the Rajasthan State Consumer Disputes Redressal Commission, Jaipur (hereinafter referred to as the 'State Commission') and the District Consumer Disputes Redressal Commission, Pratapgarh (hereinafter referred to as the 'District Forum') dismissing the complaint of the petitioner, the original complainant has preferred the present special leave

petitions.

2. We have heard Shri Viraat Tripathi, learned Advocate appearing on behalf of the petitioner.

2.1 At the outset, it is required to be noted that as such there is a huge delay of 593 days in preferring the special leave petition against order dated 25.11.2019. Still, we have considered the special leave petitions on merits also.

3. That the petitioner herein filed three complaints being complaint Nos. 101/2014, 102/2014 and 01/2015 before the District Forum through his three advocates against BSNL. All the three complaints came to be dismissed by the District Forum on merits. That after dismissal of the complaints, the petitioner herein filed a complaint against the three advocates who appeared on behalf of the petitioner in the aforesaid three complaints alleging deficiency in service on their part in contesting his cases before the District Forum.

3.1 It was alleged that all the three advocates have not performed their duties properly. The said complaints were also filed with delay of 365 to 630 days. The petitioner herein claimed for a compensation of Rs.15 lakhs from the advocates alleging deficiency in service in contesting the three complaints which were dismissed. The said complaint filed against the three advocates came to be dismissed by the District Forum. The appeal preferred by the petitioner herein before the State Commission also came to be dismissed, which was the subject matter of the revision petition before the National

Commission. By the impugned judgment and order(s), the learned National Commission has dismissed the said revision petition, as also, the review application.

4. Having heard Shri Viraat Tripathi, learned Advocate appearing on behalf of the petitioner and having gone through the impugned judgment and order passed by the learned National Commission and even the order passed by the District Forum dated 30.06.2016 passed in original complaint nos. 101/2014, 102/2014 and 01/2015, we are of the firm opinion that the District Forum, the State Commission and the National Commission have rightly dismissed the complaint filed by the petitioner herein filed against the three advocates who appeared on behalf of the petitioner in the aforesaid three complaints, which as such were dismissed on merits. There are no observations by the District Forum against the advocates that there was any negligence on the part of the advocates in prosecuting and/or conducting the complaints. In the common order, it has been specifically observed by the District Forum that the allegations in the complaints are not proved and due to which all the three complaints are liable to be dismissed. Once the complaints came to be dismissed on merits and there was no negligence on the part of the advocates at all, it cannot be said that there was any deficiency in service on the part of the advocates who appeared on behalf of the complainant and lost on merits.

4.1 Once it is found and held that there was no deficiency in service on the

part of the advocates, the WWW.LIVELAW.IN complaint filed by the petitioner – complainant against the three advocates was liable to be dismissed and is rightly dismissed by the District Forum and the same has been rightly confirmed by the State Commission and thereafter by the National Commission. Only in a case where it is found that there was any deficiency in service by the advocate, there may be some case. In each and every case where a litigant has lost on merits and there is no negligence on the part of the advocate/s, it cannot be said that there was any deficiency in service by the advocate/s. If the submission advanced on behalf of the petitioner is accepted, in that case, in each and every case where a litigant has lost on merits and his case is dismissed, he will approach the consumer fora and pray for compensation alleging deficiency in service. Losing the case on merits after the advocate argued the matter cannot be said to be deficiency in service on the part of the advocate. In every litigation, either of the party is bound to lose and in such a situation either of the party who will lose in the litigation may approach the consumer fora for compensation alleging deficiency in service, which is not permissible at all.

5. Under the circumstances, the District Forum, the State Commission and the National Commission have rightly dismissed the complaint filed by the petitioner herein against the three advocates who appeared on behalf of the petitioner in the aforesaid three complaints which came to be dismissed on merits. There is no substance in the present special leave petitions. We

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would have dismissed the special leave petitions with exemplary costs, however, as the present proceedings arise out of the order passed by the consumer forum, we refrain from imposing any exemplary costs while dismissing the present special leave petitions.

6. The special leave petitions are dismissed on the ground of delay as well as on merits. Pending applications, if any, also stand disposed of.

.....J.
[M.R. Shah]

New Delhi;
November 08, 2021.

.....J.
[B.V. Nagarathna]

ITEM NO.22 Court 12 (Video Conferencing) SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No. 24842/2021

(Arising out of impugned final judgment and order dated 25-11-2019 in RP No. 380/2019 and 07-01-2020 in RA No. 348/2019 in RP/380/2019 passed by the National Consumers Disputes Redressal Commission, New Delhi)

NANDLAL LOHARIYA Petitioner(s)

VERSUS

JAGDISH CHAND PUROHIT & ORS. Respondent(s)

(FOR ADMISSION and I.R. and IA No.139727/2021-CONDONATION OF DELAY IN FILING and IA No.139730/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 08-11-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Priyanshu Upadhyay, Adv.
Mr. Viraat Tripathi, Adv
Mrs. Suchita Dixit, Adv
Mr. Madhusudan Agnihotri, Adv
Mr. Ashwini Kumar, Adv
Mr. Rajeev Yadav, Adv
Mr. Anilendra Pandey, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The Special Leave Petitions are dismissed on the ground of delay as well as on merits in terms of the signed reportable order.

Pending applications shall stand disposed of.

(NEETU SACHDEVA)
COURT MASTER (SH)

(NISHA TRIPATHI)
BRANCH OFFICER

(signed reportable order is placed on the file)