



Are You Expecting Interests on Wrong Investments?

Forum may dismiss complaint

Time and again, through this column, we have underlined the fact that consumer forums are to protect the rights of the consumer and they go to great lengths in ensuring that the consumer is not being misguided, fooled or cheated by commercial entities. However, sometimes, consumers try to take advantage of this consumer-friendly stance of the forums and file complaints that do not justify their demands. Some of the common complaints are against finance companies, insurance companies, mutual fund investments and post office investments wherein the consumer firstly agrees to all conditions of the concerned organisation and then moves court in denial. In such cases, the forums takes a strict stance and do not allow complainants to waste the forums' time.

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Moreover, if the complainant knowingly makes a wrong investment and moves to the forum, his complaint is bound to be dismissed by the forum. And no, the complainant cannot even ask for simple bank interest in such cases; any such demand is not heard and the complaint is dismissed.

A Case to Note

A formal case on the subject came up in January 2013 in Rajasthan State Commission and got a final verdict in National Commission in August 2015. The issue was primarily investment in National Savings Scheme (NSS). The depositor had opened two accounts at two different post offices despite knowing that one person could have only one account and was allowed to benefit only from 'one' scheme. The

same facts are elaborated in Post Office Manual Vol. 1, Rule 156, which clearly states that an individual depositor can open only one NSS account.

Despite knowing the rules, Hanuman Prasad opened an account with Department of Post at Alwar head office by depositing Rs 5,000 in 1991. The complainant again deposited Rs 6,000 in the same year and another Rs 13,100 in 1992. At the time of maturity after 16 years, instead of paying 11 per cent interest, the post office paid a simple interest at 3.5 per cent (as payable in savings accounts). The department did this as it had discovered that the depositor had opened his first account under NSS in another post office at Arya Nagar in 1990 and hence opening of another account in a different post office was contrary to the rule.



Objecting to the post office's decision, Hanman Prasad filed a complaint before the Consumer Disputes Redressal Forum, Jaipur. The complaint was dismissed after due hearings of both the parties.

The forum's jury observed: "...we find that it was the duty of the complainant to disclose the fact with regard to earlier account number opened by the complainant. According to the above said rule and submitting false declaration by the complainant, we do not find any deficiency of services on the part of the respondents/opposite party."

State Commission reverses decisions

Complainant went in appeal to the State Commission. The latter was of the opinion that the opposite party must prove that the complainant made a false declaration 16 years ago. Complainant had stated that at the time of opening the account the rules were not disclosed to him. Hence, rate of interest on another NSS account as applicable to savings account was not acceptable to him. The department could have closed the account or at least given one notice to this effect. The facts did not prove that the complainant was aware of the rule at the time of opening an account. Hence, the appeal filed by complainant was allowed and got a favourable decision.

Mixed opinions at National Commission

When the case went to the National Commission, the opinion of two members differed. Member Vinay kumar, on the point that one individual could open only one account, stated, "...same rule casts duty upon the department to take undertaking from the account holder that he is not maintaining any other account under the scheme. There is nothing on record

that such undertaking was taken. Complainant's case is that he was never informed that second account was not permissible. Hence, there is no deliberate intention to cause deceit to the respondent. So, complainant is entitled to full rate of interest under NSS."

However, Justice KS Choudhuri found that the complainant had not come with clean hands, and set aside the order passed by State Commission which was in favour of complainant.

Third independent judge referred

With difference in opinion among two judges, as a rule the case went to third independent judge Ajit Bhariok, who discussed the law connecting to this case for reaching some logical conclusion. After going through the entire set of papers and the issue in dispute, it was held by the Commission that opening of two NSS accounts by an individual was not permissible as per the rules of NSS 1987. The complainant had opened a second NSS account in a different post office but that did not change the rule or status of deposit. It was also proven that opening two NSS accounts was not barred as per the rules, but benefit under the scheme was not to be given on the second NSS account. Hence, it was not the duty of the staff to close it or give notice or to remind every depositor about the wrong done by them.

Another issue discussed by the independent judge was whether awarding compensation for deficiency in service on the part of the department was justified. It was made clear that awarding compensation to be paid by the department for no wrong done was found unjustified. Hence, the jury left it to the depositor to carefully understand rules, terms and conditions before making any such investment.

Treading a Thin Line

As per Rule 10 of Post Office Manual, the ministry of finance is empowered to relax the rule, by recording reason and justification, if any depositor is deprived and undue hardship is caused to him due to wrong investment.

This rule was discussed in detail in the case of Department of Post & Telegraph versus Dr RC Saxena in 1997. The court, while discussing the same, insisted that this power should be exercised by the government with great caution and only in the rarest of rare cases.

In cases like the one discussed in this article, it is clear from the facts that the depositor opened another account in a different post office and not in the same post office because he was well aware of the rule that one could not open two accounts in the same post office and that his intent was to get interests on different deposits.