RESERVED

State Consumer Disputes Redressal Commission
U.P., Lucknow.

Appeal No.122 of 1996

1- Executive Engineer,
U.P.S.E.B.,
Electricity Urban Distribution Div-II,
Kishorenagar, Aligarh.

2- Dy. Chief Accounts Officer,
U.P.S.E.B.,
J-9, Lawyers' Colony, Agra.

3- Regional Chief Engineer,
U.P.S.E.B.,
J-9, Lawyers' Colony, Agra.

4- U.P.S.E.B.,
Shakti Bhawan,
Ashok Marg, Lucknow
Thtough its Chairmam.

5- Chief Accounts Officer,
G.P.F. Department,
U.P.S.E.B.,
Shakti Bhawan,
Ashok Marg, Lucknow. ... Appellants.

Versus

Prem Prakash Upadhyay,
R/o Village Nehra, Post Lodha,
Teh. Koal, District Aligarg. ....Respondent.

Present:-
1- Hon'ble Sri A.K. Bose, Presiding Member.
2- Hon'ble Smt. Bal Kumari, Member.

Sri Deepak Malhotra, Ld. Counsel for the appellants.
None for the respondent.

Date 24.9.2013

24.9.2013 BK

Per Sri A.K. Bose, Member.

JUDGMENT

The appeal is of 1996 and is listed for hearing. The respondent did not appear inspite of issuance of registered notice followed by Service Postage reminder on 21.9.2011.

Heard the Ld. counsel for the appellants, In the instant matter a Member of the DCDRF, Aligarh pronounced the judgment in Complaint Case No.1200 of 1993 on 5.10.1995 and directed the OPs U.P.S.E.B to make payment of GPF, Gratuity and other arrears with interest varying from 10 to 15 % and also awarded cost. The President of the Forum disagreed with the aforesaid finding and held that the dispute relates to gratuity, GPF and other retrial benefits and, therefore, in view of the ruling laid down in Appeal No.778 of 1993 by the State Commission, the Forum had no jurisdiction to adjudicate the matter and, therefore, he was pleased to dismiss the complaint. The matter was referred to third Member of the Forum who without assigning any opinion regarding the merits of the case agreed with the finding of Member and accorded her concurrence on 15.11.1995. Aggrieved by this majority judgment and order, the instant appeal has been filed.

Admittedly, the matter relates to payment of pension, Gratuity, G.P.F., Travelling Allowance, D.A. etc. which are statutory functions and are beyond the scope and purview of the Consumer Protection Act. The element of hiring of services and payment for consideration in lieu

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thereof is not on record. It is a settled law that such matters are beyond the scope of the Consumer Protection Act and the President of the Forum was absolutely correct in holding that the finding of the Member was against the provisions of law. The matter related to statutory functions which was beyond the scope of the Consumer Protection Act. The majority judgment of the Ld. DCDRF, Aligarh is against the settled law and, therefore, is liable to be set aside in view of the rulings laid down in Brijendra Kumar Jain Vs. District Magistrate, Haridwar, II(2001) CPJ 56, CMO, Vs. Kashi Ram Gaur, III(1999) CPJ 557 and Regional Provident Fund Commissioner Vs. Shiv Kumar Joshi, III(1999) CPJ 36.

Accordingly, the appeal is allowed. The majority judgment of Ld. DCDRF, Aligarh is set aside.

Consign the records.

24.9.2013.

(A.K. Bose)
Presiding Member

(Smt. Bal Kumari)
Member

Jafri
ST G-1 Court No.3