

District Sialkot
IN THE COURT OF MR. MALIK PEER MUHAMMAD,
DISTRICT & SESSIONS JUDGE /PRESIDING OFFICER, DISTRICT
CONSUMER COURT,
SIALKOT/NAROWAL.

Case No. 47 /2009

Date of Institution: 13-04-2009.

Date of Decision: 07-01-2010.

*Mohsin Awan S /O Dr. Maqsood Ahmed cast by Awan
R/O House No.9/182 Rasool Manzil, Islampura, Sialkot.*

(Consumer/subscriber/Complainant)

Versus

*1. Manager Operation, Muslim Commercial Bank,
Sadar Bazar Branch, Sialkot Cantt.*

(Service Provider/Respondent)

R D E R.

According to the precise facts of this complaint, complainant being consumer of the respondent obtained Visa Credit Card No.4789720000151730 which is under his exclusive used for last two years. Against the above said services he regularly paid all bills to the respondent. In the month of January complainant received a bill for Rs.2,340/-, which was paid through cross cheque No.1761328 dated 22-01-2009, Habib Bank Limited. He handed over this cheque to the respondent which was cleared on 24-01-2009 by the Habib Bank (Contd....2)

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Limited. After clearance of the bill respondent mistakenly again asked to the complainant for to pay the same, due to this illegal act of the

respondent, complainant credibility has been shacked and damage, the complainant is put up as defaulter in the record of State Bank of Pakistan, when he committed no fault. He served the legal notice to the respondent on 02-03-2009 and received the reply of the notice on 20-03-2009. It is submitted that complaint be accepted and respondent be directed to pay the damages to the tune of rupees one million (Rs.1,000,000) alongwith other expenses such as Lawyer's fee of Rs.30,000/-.

After receipt of this complaint in this office preliminary argument were heard and respondent were summoned through the subpoena. On the next date of hearing respondent No.1 was served and in this response Syed Arshad Mahmood, Manager Operation put up his appearance before the court on behalf of respondent No1. On the said date of hearing said Syed Arshad Mahmood, Manager Operation put his signature alongwith the interim order for token of acknowledgment of his appearance in this court. Later on none appeared on behalf of respondent No1, hence he was proceeded ex-part on 19-09-2009. (Contd....3)

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On 09-12-2009 learned counsel for the complainant got recorded his statement that he seeks no relief for respondent No.2 upon his statement respondent No.2 was deleted. Ex-part evidence of the complainant is recorded in which he got recorded the statement of the complainant AW1. On the documentary side he produced the photo copy of the cheque as mark-A, account statement Ex-PA/1, bill for the

payment of the default amount Ex-AW1/2, copy of the legal notice Ex-AW1/3 , reply of the legal notice Ex-AW1/4, bill issued by the MCB Ex-AW1/5 and closed his oral and documentary evidence.

Ex-part arguments heard.

Record perused.

The first question before the court that if the present consumer falls under the definition of consumer, it is obvious from the contents of the complaint that complainant being the account holder under the respondent acquired VISA CARD which is under his use for last two years, he paid the regular bills. There is no objection on the opposite side that complainant is not consumer hence, it can easily inferred that complainant falls within the contemplation of the consumer.

(Contd....4)

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The pivotal question before the court is that if disputed bill Rs.2,340/- paid by the complainant through cheque No.1761328 dated 22-01-2009 through Habib Bank Ltd. circular road, Sialkot branch and the same was clear on 24-01-2009. After the clearance of this cheque respondent intentionally again installed the paid amount in the next bill of the complainant. To answer this question I explored the statement of the complainant and other relevant document appended and exhibited in the record. According to the statement of AW1 he paid the bill through the cheque which was debited from his amount in the Habib Bank Ltd, in the second bit of his statement he

deposed that later on respondent Bank in the month of April 2009, all the amount deposited and penalty imposed by him was returned back. In this regard Ex-bit AW1/5 statement issued by the respondent is on the file which indicates that on 26-03-2009 late payment fee was reverse to the complainant. The said check was against Habib Bank. There is no evidence on record, if it was with hold by the respondent or by the said Habib Bank. Mere check itself is not sufficient, until and unless it encashed by the said branch/Bank for the purpose of payment. (Contd....5)

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The main grievance of the complainant is that due to the mistake of the respondent, State Bank of Pakistan shall feel hesitate to issue the loan nor he shall accept the guarantee as such he suffered a serious shock to his reputation, hence entitled for the compensation of one million (Rs.1,000,000/-) alongwith the fee of the Lawyer. Regarding this allegation no documentary evidence is produced before the court through, which it may be realized that State Bank has refused to issue loan in favour of complainant. When the complainant seeks relief from this court and asked to award one million (Rs.1, 000,000) as damages, this court is fully aware about the intention of the law, the object of the damages to compensate for what complaint has lost, and what he suffered injury law does not take into account of harms suffered by the person which caused no legal injury. Damage so done is called *damnum-sine-injuria*. Such damage does not given the sufferer any right to get compensation. When the respondent has

rectified his mistake in the coming bill and refunded the amount, reverse penalty by its own then, complainant had no left grievance against respondent. So for the arguments that State Bank shall not obey to (Contd....6)

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the complainant regarding the payment of loan. In this regard there is nothing on the record, regarding the refusal of the State Bank hence, I judicially feel that complainant suffered no damages by the act of the respondent hence, this complaint is dismissed. There is no order as to cost. File be consigned to the record room after its compilation.

Announced:
07-01-2010.

Presiding Officer,
District Consumer Court
Sialkot/Narowal.

CERTIFICATE

Certified that this order contains six pages and each of pages is dictated, corrected and signed by me.

Announced:
07-01-2010.

Presiding Officer,
District Consumer Court
Sialkot/Narowal.