IN THE COURT OF EJAZ AHMAD BUTTAR DISTRICT & SESSIONS JUDGE / PRESIDING OFFICER, DISTRICT CONSUMER COURT, FAISALABAD.

Complaint No	941/09
Date of institution	15-12-09
Date of decision	26-7-10

M. Nawaz Vs Saleem Bajwa etc.

Petition for grant of damages of Rs.2,77,300/-for defective service.

ORDER

Facts in brief are that the petitioner, a resident of District Faisalabad, applied for admission in Dispenser Course offered by the respondent No.1; petitioner also paid admission fee of Rs.6000/- besides making few other deposits for mid term and final term coming to Rs.3000/- and also kept on paying monthly fee of Rs.2000/-. After holding examination in March 2009, the respondent declared the petitioner as qualifying for Dispenser Course but when the petitioner applied for job it was found that respondent's Islamic Institute of Medical Technology was neither is registered nor even recognized by the competent authority, thus, not only that respondent wasted petitioner's time of about 1 ½ year but also caused him financial loss of Rs.90,000/- the petitioner also allegedly suffered mental torture compensatable by damages of Rs.1,50,000/-. The petitioner demanded from respondent both in person and through others and also issued him legal notice demanded to pay suit amount of Rs.2,77,300/- but he did not respond positively, hence this petition for refund of fees / other deposits and amounts spent on purchase of uniform, performance of journey and damages for mental torture.

2. Petition was contested by respondent on the objection, interalia, that petitioner's claim was liable to dismissal the same being barred by time.

3. Respondent's learned counsel, while drawing attention of court to para 14 of petition, submitted that the petitioner admitted in the petition that respondent had refused to admit his claim in mid October 2009, therefore, the petitioner should have filed this petition within 30 days from respondent's refusal to admit his claim – instead, the petitioner filed his claim late by 30 days which delay he also failed to explain. As regards, petitioner's request for condonation of delay (of 30 days) u/s 5 of Limitation Act, it was contended that provision of section 5 ibid are not applicable to proceeding before this court. Attention was also drawn to section 29 of Limitation Act. With these submissions, rejection of petitioner's claim was prayed for.

4. On the other hand, petitioner's learned counsel submitted that cause of action in this case arose with respondent's refusal to admit petitioner's claim within fourteen days from service of legal notice i.e. till 27-11-09, whereas the present petition was filed on 15-12-09, therefore, petitioner's claim is quiet within limitation of 30 days as required by section 28 of Punjab Consumer Protection Act 2005. Petitioner's learned counsel further submitted that even if for arguments sake petitioner's claim is found is time barred delay may be condoned u/s 5 of Limitation Act.

5. Admittedly, respondent refused to admit petitioner's claim in mid–October 2009 (vide para 14 of petition), therefore, cause of action accrued to the petitioner on or around 15-10-09 but the petitioner filed this claim on 15-12-09 instead of 30 days i.e. on or before 15-11-09 as is required by section 28 of Punjab Consumer Protection Act 2005, thus the petition is time barred by one month which delay was also not explained by the petitioner. As regards condonation of said delay u/s 5 of Limitation Act 1908, it cannot be granted by this court as provisions of section 5 ibid are not applicable to proceedings under Consumer Protection Act 2005 as laid down in section 29 of Limitation Act.

6. For what has been stated above, petition is dismissed no order as to costs. After due completion, file be consigned to record room.

Announced
26-7-10

Ejaz Ahmad Buttar,
District & Sessions Judge/
Presiding Officer,
District Consumer Court, Faisalabad.

Certified that this order consists of three pages which have been corrected and signed by me.

Announced
26-7-10.

Presiding Officer,
District Consumer Court, Faisalabad.