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CONSUMER COMPLAINTS, PROTECTION AND GUIDELINES FOR FILING

Consumer Complaints, Protection and Guidelines for Filing

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Abstract – Appeal against the decision of the District Forum, State Commission and National Commission should be presented before the State Commission, National Commission and Supreme Court' respectively within a period of thirty days from the date of verdict.

The Supreme Court, National Commission and the State Commission may entertain an -appeal after the expiry of the said period of thirty days if they are satisfied that there was sufficient cause for not filing it within that period.

INTRODUCTION

Electric supply

Electric supply is one of the fields where the public sector units have a monopoly. The National Commission, (National Disputes Redressal Commission) in a dispute (Y. N. Gupta Vs D.E.S.U.,1993) held that faulty billing, charging of late fee wrongfully, however small it may be, arbitrary disconnection of power supply etc. are all deficiencies in the rendering of service.

A consumer is entitled to the services provided by the bank and the bank voluntarily extends its services. The services like provision of lockers are charged for and therefore the consumer is entitled to compensation if he suffers any loss due to the negligence of the bank. Insurance There are many instances where insurance companies show callous attitude in rejecting even genuine claims on the flimsiest grounds, sparing even widows. Even after the enactment of CPA policy holders had to take resort to the civil courts. Other services like telephone, railways, airlines, road transport, post offices are also provided to potential users for a consideration and so they also come under CPA. But the consumer is entitled to relief under CPA only if he is able to establish that the services hired by him for a consideration as a deficiency.

Check Your Progress 1

Note : i) Use the below for your answers.

ii) Check your answers with the model answers given at the end of the unit.

1) Who is a consumer under CPA ?

2) Who can file a complaint under CPA?

3) Identify some services which are covered under the CPA.

CONSUMER DISPUTES REDRESSAL AGENCIES

The CAP established a three-tier structure for redressal of consumer inputs. The redressal machinery consists of the following agencies, namely,

a) Consumer Disputes Redressal Forum known as the 'District Forum'

b) Consumer Disputes Redressal Commission known as the 'State Commission'.

c) National Consumer Disputes Redressal Commission known as the 'National Commission'.

DISTRICT FORUM

COMPOSITION OF THE DISTRICT FORUM

Each District Forum consists of a president and two other members and one of them should be a woman. The president is a person who has been or is qualified to be a District Judge. The two other members are persons of ability, standing and integrity and have adequate knowledge or experience or have shown capacity in dealing with problems relating to economics law, commerce, accountancy, industry, public affairs or administration.

APPOINTMENT

Every appointment to the District Forum is made by the State Government on recommendation of selection committee consisting of

- i) The President of State Commission - Chairman
- ii) Secretary, Law Department of the state - Member
- iii) Secretary incharge of the Department dealing with Consumer Affairs in the State - Consumer Comptitints : Member Guidelines for Filing

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A member of the District Forum holds office for a term of 5 years or up to an age of 65 years, whichever happens earlier and is not eligible for appointment.

JURISDICTIN

- 1) The 'District Forum' has jurisdiction to entertain complaints whete the value of goods, services and compensation claimed (if any) does not exceed Rs. five lakhs.
- 2) A complaint can be filed in the District Forum in whose territorial jurisdiction the opposite party or parties, at the time of instruction of complaint, actually and voluntarily resides, carries on business, has a branch office or personally works for gain.
- 3) If any of the opposite parties does not voluntarily reside, carry on business, have a branch office or personally works for gain the District Forum should grant permission or the opposite parties should consent to such an institution.
- 4) The complain! can also be filed before the District Forum in whose jurisdiction the cause of action, wholly or in part arises.

STATE COMMISSION

COMPOSITION OF STATE COMMISSION

State Commission consists of three members. One of them is the President and one of the members should be a woman.

The President of the State Commission is a person who is or has been a judge of the High Court. The two other members are person of ability, integrity and standing and have adequate knowledge or experience or have shown capacity in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration.

The Consumer Protection (amendment) Act, 1993 has provided that no appointment is to be made except after consultation with the Chief Justice of High Cow. The other two members are appointd'd by the State

Government on the recommendation of a Selection Committee consisting of

- i) President of State Commission -Chairman
- ii) Secretary of the Law Department of the State - Member.

NATIONAL COMMISSION

The President is appointed by the Central Government after consultation with the Chief Justice of India. The other members are appointed by the Central Government on the recommendation of a Selection Committee consisting of:

- a) a person who is the judge of the Supreme Court, nominated by the chief Justice of India - Member.
- b) Secretary of the Department dealing with consumer affairs in the Government of India - Member.

REDRESSAL OF CONSUMER GRIEVANCES JURISDICTION

The National Commission has jurisdiction to entertain

- i) complaints where the value of goods, services and compensation claimed exceeds Rs. 20 lakhs and
- ii) appeals against the orders of any State Commission.

The National Commission can also call for records and pass orders in any consumer dispute which is pending before the State Commission or has been decided by the State Commission where it appeals to the National Commission that such State Commission has exercised a jurisdiction vested in it or has acted in it's exercise of jurisdiction illegally or with material irregularity.

Check Your Progress 2

Note : i) Use the space below for your answers.

ii) Check your answers with the model answers given at the end of the unit.

- 1) What is the structure of redressal machinery in India ?
- 2) What is the jurisdiction of District Forum ?
- 3) Write three lines on the composition of the State Commission.

PROCEDURE FOR FILING A COMPLAINT

The complainant or his authorized agent can present the complaint in person or send it by post to the appropriate forum or Commission, as the case may be. No fee is charged for filing a complaint before the District Forum or the State Commission or the National Commission.

IMPORTANT POINTS

- 1) Each of the members and the opposite parties are to be sent a copy of the complaint.
- 2) The complaint himself should possess two or more copies of the complaint.
- 3) If the complainant desires so he can send a copy to an active voluntary consumer organization.
- 4) A complaint should always be supported and verified by an affidavit.

TIME LIMIT CONSUMER COMPLAINTS : GUIDELINES FOR FILING

The District Forum, State Commission or the National Commission admits a complaint only if it is filed within two years from the date on which the cause of action arose. A complaint filed after a period of two years is entertained only if the complainant is able to satisfy the members of the Redressal agency that he had sufficient reasons for not filing the complaint within the stipulated period. Such a complaint cannot be entertained unless the District Forum, the State Commission or the National Commission, as the case may be, records its reasons for condoning such a delay.

DECISION TIME

The District Forum, State Commission and National Commission are required to decide complaints, as far as possible, within three months from date of notice received by the opposite parties. For those complaints which require laboratory analysis or testing of commodities, the period is extended to five months.

Check Your Progress 3

Note : i) Use the space below for your answers.

ii) Check your answers with the model answers given at the end of the unit.

- 1) How can a complaint be filed and what is the fee charged ?
- 2) What are the important points to be noted when filing a complaint ?

3) What is the time within which a complaint is to be filed ?

4) When can a complaint be filed after the prescribed time limit be entertained ?

Form for Complaint

District Forum Vs complainant

I Complaint under Consumer Protection Act 1986 Sir, I
The complainant begs to submit as under :

I 1) The name, description and the address of the complainant I

I 2) The name, description and the address of the opposite parties, as the case may be, I

Redressal of Consumer

I as far as they can be ascertained.

I 3) The facts relating to the complaint and when and where it arose.

4) Documents, if any, in support of the allegations contained in the complaint. a) Removal of defects from the goods,

b) Replacement of the goods, c) Refund of the price paid,

d) Award of compensation for the loss or injury suffered.

That the various facts and reasons stated above, the complainant prays that the learned District

Forum be pleased to order the opposite party the relief. I complainant Verified at that the contents of Para 1 to 4 are true to the knowledge of the complainant and nothing therein has been concealed. Complainant

PENALTIES

If the person against whom the complaint is made or the complainant fails or omits to comply with any order made by the redressal agency, he can be punished with imprisonment for a term not less than one month but may extend up to three years or fined an amount more than Rs. 2000/- but less than Rs. 10,000/- or both.

A redressal agency, if it is satisfied that the circumstances of any case so require, impose a sentence of imprisonment or fine or both for a term lesser than the minimum amount said above.

APPEALS

When a person is aggrieved by the decision of a court, he can challenge the decision in a higher court. This is called an appeal.

PROCEDURE

Appeal against the decision of the District Forum, State Commission and National Commission should be presented before the State Commission, National Commission and Supreme Court respectively within a period of thirty days from the date of verdict.

The Supreme Court, National Commission and the State Commission may entertain an appeal after the expiry of the said period of thirty days if they are satisfied that there was sufficient cause for not filing it within that period.

The procedure for the appeal is the same as that of a complaint except that it should be accompanied by the orders of the District Forum, as the case may be. No fee is charged for filing an appeal before the State Commission and National Commission.

ENFORCEMENT OF ORDER

Every order made by the redressal agencies is enforced in the same manner as if it were a decree or order made by a court in a suit pending there in. In the event of the redressal agency's inability to execute the order, it can be sent to the Court in whose jurisdiction

a) the case of an order against a company, the registered office of the company is situated.

b) The case of an order against a person, the place where the voluntarily resides or carries on business or personally works for gain, is situated.

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