IN THE CONSUMER DISPUTES REDRESSAL COMMISSION, THRISSUR

Present : Sri. C.T. Sabu, President
Smt. Sreeja. S., Member
Sri. Ram Mohan R., Member

18th day of December 2024
CC 9/23 filed on 19/01/2023

Complainant	:	James E.P., Muttikkal House, P.O Ayyanthole, Pin – 680 003. (In Person)
Opposite Party	:	Branch Manager, SBI Thrissur Civil Station, P.O Ayyanthole, Pin – 680 003. (By Adv. T.R Rajeev, Thrissur)

F I N A L O R D E R

By Sri.Ram Mohan R, Member :

1) Complaint in brief, as averred :

The complainant, holder of account no. 67053812174 with the opposite party SBI Bank Branch, on 04/07/2022, statedly applied for a new debit card, the validity of his previous card having ceased. The opposite party having not issued a new one despite repeated requests to that effect made by the complainant, the complainant sent an email to the opposite party on 10/11/2022 seeking compensation worth Rs10,000/- (Rupees ten thousand only) for every month of delay caused by the opposite party. Thereafter, the complainant statedly received the new debit card on 16/11/2022, but no compensation was paid by the opposite party. The complainant claims to have undergone agony, hardship and financial loss owing to the delay caused by the opposite party in issuing the new debit card to him. Hence the complaint. The complainant prays for an order directing the opposite party to pay him compensation and costs.

2) NOTICE :

The Commission having issued notice, the opposite party filed their written version and contested the complaint.

3) Version of the Opposite Party :

The opposite party denies the complainant's having applied for a new debit card on 04/07/2022. Also, they deny the complainant's email dated 10/11/2022, whereby he allegedly sought for compensation from the opposite party. The opposite party states that the issuance of cards is bank's associated activity with card issuing agencies like, Visa, Master, Rupay, etc. The complainant having not arraigned the card issuing agency, concerned, as a party to the complaint, the opposite party alleges non-joinder of parties, as well. The opposite party claims that the new card was despatched to the complainant in time, in the address given by him, but was returned as the addressee was continuously absent. Consequently, the returned card was delivered by the opposite party bank-branch to the complainant. The opposite party affirms that delay, if any, caused is attributed to the default of the complainant himself.

4) Evidence :

Complainant produced documentary evidence that had been marked Ext. A1 & A2, apart from material object marked Ext. MO1, replication on version, deposition, affidavit and notes of argument. The opposite party produced documentary evidence that had been marked Ext. B1, apart from affidavit, deposition and notes of argument. The complainant underwent cross examination as PW1 whereas the opposite party as RW1.

5) Deliberation of facts and evidence of the case

The Commission has very carefully examined the facts and evidence of the case. Ext. A1 is cancelled cheque leaf No. 216501 issued by the opposite party in favour of Sitha James/James in account No. 67053812174. Ext. A2 is a print out of the complainant's e-mail dated 10/11/2022 addressed to the opposite party. Ext. MO1 is State Bank card No. 5103 7201 4630 2151 with other entries inter-alia as: "VALID THRU JUN 2022, SITHA".

Ext. B1 is a print out of "the computerised records regarding issuance and re-dispatch of card".

6) Points to be deliberated:

(i) Whether the complaint, as alleged, is bad for non-joinder of parties?

(ii) Whether the complainant succeeded in proving the allegation that he raised against the opposite party? Also, whether there is any deficiency in service on the part of the opposite party?

(iii) Whether the complainant is entitled to receive any compensation from the opposite party? If so its quantum?

(iv) Costs?

7) Point No.(i)

The opposite party does not dispute the MO1 debit card and they swear by affidavit that the name on the card appears as 'SITHA', the account, concerned, being a joint account in favour of the complainant and his wife. Though the opposite party disputes the complainant's having applied for a new debit card on 04/07/2022, they claim to have, on 05/07/2022, issued the new debit card to the complainant and despatched to him on 11/07/2022 through their card issuing agency. The opposite party's averment of non-joinder of the card issuing agency, does not hold any water, as the complainant as an account holder of the opposite party bank, does have the privity of contract only with the opposite party, and not with the card issuing agency. Moreover, the card issuing agency is one chosen by the opposite party at their own volition, and the complainant plays no role in the same, as well. Hence, the complaint is not found bad for non-joinder of the card issuing agency, concerned.

8) Point No.(ii)

The opposite party is expected to voluntarily issue renewed debit card to the complainant without any prompt from his part, provided the KYC details in respect of him, hold good. The opposite party has no stance that the KYC details in respect of the complainant, lacked updation or were not valid, at the point of time while his debit card warranted renewal. In the cast at hand, the opposite party claims to have, through the card issuing agency, issued new debit card on 05/07/2022 and despatched the same to the complainant on 11/07/2022. The opposite party further claims that the new card so despatched to the complainant was returned unserved, as the addressee was unavailable at his permanent address. The opposite party at the same time does not dispute the complainant's contention that the renewed card was eventually handed over to him only on 16/11/2022. Obviously, certain delay is caused, by one reason or other, in making the new card available to the complainant. But the opposite party contends that it is not their fault and they rely on Ext. B1 computerised records regarding issuance and re-despatch of card, to substantiate their averment to this effect. But Ext. B1 is a document generated by the opposite party's system, in accordance with the inputs fed in by the opposite party themselves. Hence Ext. B1 document on its own, does not command absolute credibility and acceptance, unless it is validated by any self-standing, conclusive and authoritative document. While producing such an internally generated document as Ext. B1, the opposite party does have the bounden duty to prove the veracity of the inputs they fed in, which eventually gave rise to it (Ext. B1). Even if the inputs fed in by the opposite party in their system are taken at face value, a debit card is, undoubtedly, despatched to the complainant through an agency such as the Postal Department or a Courier service. The opposite party has failed to produce any such document issued by the postal department or a courier service, in respect of the claimed despatch and return of the card as per the Ext. B1 system data. If the card, as claimed, is despatched to the complainant through a card issuing agency, the opposite party has not cared to take any steps to get such document produced by the card issuing agency, concerned, as well. It is trite law that the onus to prove lies on the complainant. In the case at hand, the complainant succeeded in establishing his contention that the new card was made available to him only belatedly. If the complainant discharges his initial onus, the burden would then shift to the opposite party in the complaint. In the instant case, while the complainant succeeded in shifting the burden to the opposite party, the opposite party failed to unambiguously prove their contentions regarding the timely despatch and its alleged return consequent to the addressee's absence. Imperfection on the part of the bank in making the renewed debit cards timely available to the respective card holders, is certainly a deficiency in service on the part of the former.

Therefore, we are of the considered view that there is deficiency in service on the part of the opposite party.

9) Point No.(iii) & (iv)

As elaborated supra, there is deficiency in service on the part of the opposite party, in so far as their having not cared to timely despatch the renewed card to the complainant, is concerned. Digital revolution has, in fact, redefined the very face of human life. Banks have kept pace with the change in technology, which in turn not only reflects the technological progress, but also the democratisation of information that followed it. Digital advancement has made a plethora of content/information readily and digitally available to the account holders, even in the remotest areas. Visiting banks was a part of daily life in the non-digital era, but it is not so in the digital era. Consequently, the common man's physical visits to banks, have drastically come down to the tune of a couple per decade. Banks are adopting digital technology to streamline their operations and to ultimately improve customer experience. In the era of digital banking, common man can, inter-alia, have the convenience of banking from the comforts of home, round the clock access to banking functions, on line shopping, etc. The amenities that digital banking provides, are numerous. But the kinds of instances, as the ones in the case at hand, are indicative of the fact that the opposite party's apparatus for delivering services to their end-users, warrants an overhaul, so as to make their services timely available to the consumers, at large. Axiomatically, want of a valid debit card at the disposal of the card user, will inflict inexplicable agony and hardship on him, apart from financial loss. One to and fro commutation to a bank itself will cause agony, hardship and financial loss to an account holder. In the instant case, the complainant might certainly have, as claimed, undergone such agony, hardship and financial loss owing to the delay caused by the opposite party in delivering the renewed debit card to him. The opposite party has necessarily to compensate the complainant. The complainant prays for a compensation worth Rs. 10,000/- (Rupees ten thousand only) only. We are of the considered opinion that the complainant is entitled to receive from the opposite party the asked compensation of Rs. 10,000/- (Rupees ten thousand only) and a sum of Rs. 5,000/- (Rupees five thousand only) towards cost of litigation.

In the result, the complaint is allowed and the opposite party is directed to pay the Complainant:

a) a sum of Rs. 10,000/- (Rupees ten thousand only) towards compensation for the agony, hardship and financial loss that he underwent and,
b) a sum of Rs. 5,000/- (Rupees five thousand only) towards costs,

both with 9% interest per annum from the date of filing of the complaint till the date of realisation. The opposite party shall comply with the above direction within 45 days of receipt of a copy of this order.

Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in the open Commission this the 18th day of December 2024.

Sd/-	Sd/-	Sd/-
Sreeja S.	Ram Mohan R	C. T. Sabu
Member	Member	President

<u>Appendix</u>

<u>Complainant's Exhibits :</u>

Ext. A1 is cancelled cheque leaf No. 216501 issued by the opposite party in favour of Sitha James/James in account No. 67053812174.

Ext. A2 is a print out of the complainant's e-mail dated 10/11/2022 addressed to the opposite party.

Ext. MO1 is State Bank card No. 5103 7201 4630 2151 with other entries inter-alia as: "VALID THRU JUN 2022, SITHA".

<u>Opposite party's Exhibits</u> :

Ext. B1 is a print out of "the computerised records regarding issuance and re-dispatch of card".

<u>PW1: James E.P</u>

<u>RW1: Reshmi K</u>

Id/-
Ram Mohan R
Member

//True Copy//

Assistant Registrar

Auk

Auk

//True Copy//

Assistant Registrar