

**DISTRICT CONSUMER PROTECTION FORUM
DISTRICT COURT COMPLEX MOMINABAD, SRINAGAR.**

<u>Case No.</u>	<u>Date of Institution</u>	<u>Date of Decision</u>
60/2015	19-01-2015	12-02-2019

Sakib Altaf S/o Altaf Hussain R/o 1-Pratap Park Residency Road,
Srinagar.

.....(Complainant)

Versus

The J & K Bank Ltd. Through its Chairman, M. A. Road Srinagar.

..... (Opposite Party)

Coram:-

1. **Mohammad Ashraf Malik**President.
(Distt. & Sessions Judge)
2. **Farah Deeba (Advocate)** Member.
3. **Tariq Hussain Qadri (Retd. Assistant Director)** Member.

In the matter of:- Complaint under the J & K Consumer
Protection Act, 1987.

Appearing Counsel:

Complainant in person.

Mr. Nasir A. Shala, Adv. vice Ms. Urooj Jeelani, Law Officer for OP.

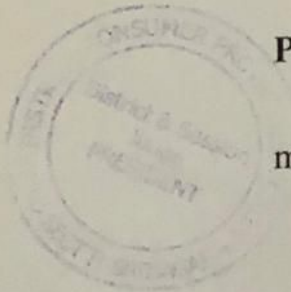
O R D E R

Per President

This complaint is from old stock and is pending disposal for as many as three years.

Summary of Facts:

Before proceeding further, let us look towards the background facts, as stated by the respective parties:-



(A) Complaint

The complainant submits as under:-

1. That on 11-01-2015, late in the evening complainant attempted to book two online air tickets through credit card bearing No. 531453110001451 issued by OP Bank for his close acquaintance;
 2. That OP Bank declined the transaction on the ground of "insufficient funds" inspite of having surplus funds as the complainant had deposited a sum of Rs 38,900/- into his credit account only a day before i.e., on 10-01-2015 vide Bank statement marked as Annexure-P1;
 3. That complainant was shell shocked on such refusal of transaction by the OP Bank and under impression that his credit card might have been hacked. Besides, the OP Bank being closed at the relevant point of time, there was no way of getting information what exactly happened causing mental stress to the complainant and even a visit to Bank's online authentication log caused further confusion as it showed successful transactions of Rs 10,267/- each qua the two failed transactions;
 4. That while the fear that credit card might have been hacked was agonizing enough, the complainant suffered huge embarrassment and humiliation due to his failure to buy air tickets for his friend and ended letting down his friend;
5. That accordingly on the very next day i.e., 12th January, 2015, complainant approached the responsible officials of OP bank whereupon assurance was extended that he still had enough funds in his credit card account (supra);



6. That thereafter complainant exchanged emails with the credit card section of the OP Bank asking them why the aforesaid transactions had been declined but to no effect;
7. That complainant impressed upon OP Bank for explanation regarding the matter but officials of OP Bank rebuked the complainant. All this caused severe mental, pain and agony, harassment and financial loss to the complainant.

Hence, this complaint is brought seeking a written apology from the OP Bank and for compensation as well as litigation expenses.

(B) Written version

The **OP Bank** in response stated as under:-

1. That complainant has neither mentioned the name of friend for whom he had to buy the tickets, the name of airline nor the name of merchandise website through which he tried to book tickets;
2. That in case of purchase of tickets online, the failure is reflected by a pop-up message which says transaction failed. It does not say "insufficient funds", hence, complainant's contention is manipulated that OP Bank declined the transaction on the ground of insufficient funds as alleged vide copy of one such pop-up is contained in Annexure-R1;
3. That the transactions were declined due to the technical snags (System Error) and in some exceptional situations online transactions through the credit card may fail as online payment is complex system having dependency on various number of factors;



4. That it is further stated that 24x7 toll free helpline No. 18000220600 has been made available by the bank to its customers for card related queries and the said number is inscribed at back of the each credit card whereupon the complainant could have taken up the matter with the OP bank;
5. It is also denied that there was any successful transaction of Rs 10,267/- in the credit card account of the complainant;
6. That the terms & conditions as also the pros and cons were fully explained in the credit card user manual provided to the complainant by the OP Bank;
7. That there has been neither any deficiency nor unfair trade practice on the part of OP Bank and complainant is not entitled to any compensation;

Accordingly, **OP Bank** prays for dismissal of the complaint.

Evidence

- I. The complainant in response to written version of OP has laid a detailed replica on 10-04-2015.
- II. (a). The complainant appeared as his own witness and such evidence was tendered vide affidavit marked as CC.
(b). The complainant has also placed on record the following documents:
 - i) Printed copy of Bank Statement contained in Annexure-P1.
 - ii) Photocopies of communiqué exchanged via Emails with OP contained in Annexure-P2.
 - iii) Printed copy of transcript of telephonic conversation between complainant and a customer care executive of OP Bank dated 24-03-2015 at 10:37 p.m. contained in Annexure-P3.
 - iv) Printed copy of OP Bank View Authentication Log from 01-01-2015 to 01-13-2015 contained in Annexure-P4.



- v) Printed copy of Emails exchanged with OP Bank qua credit card registration contained in Annexure-P5.
- III. The **OP Bank** examined OPW1 Shabeer Ahmad Reshi and such evidence was tendered vide affidavit marked as CC1.
- IV. OP Bank also produced photocopies following documents:-
- i) Printed copy of Pop up message contained in Annexure-R1;
 - ii) Original credit card user manual issued to the customer contained in Annexure-R2;

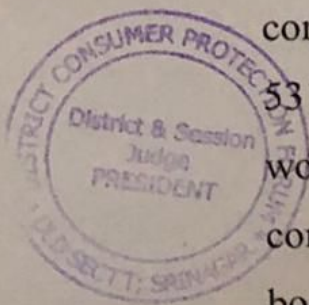
Without recasting the details of evidence, I shall prefer to refer to such evidence as and when required at the relevant time.

Appreciation

Needful to state is that evidence of the OP Bank has been closed on 13-06-2015 and case posted for final hearing. Heard learned counsel for complainant and OP on 29-12-2018 and case posted for final orders.

Perused the petition of complaint, written version, replica and considered the evidence and other documentary materials on record.

A closer look over the materials/evidence would discern that complainant was availing Credit Card facility vide No. 531453110001451 with a credit limit of Rs 50,000/- from OP Bank. It would also discern that on late evening of 11th of January, 2015 complainant was in urgent need of utilizing credit card facility to book two air tickets for one of his close acquaintance. It would further discern that the transaction was not successful once the credit card (supra) was utilized for making payment online in favour of goibibo.com. Perusal would divulge that reason for



failure of transaction displayed was **“the customer doesn't have the necessary fund OR he has given a wrong expiry date. Drop the transaction”**. Perusal would also divulge that as the credit card held by complainant was in order, matter was brought to the notice of OP vide email, downloaded copy of relevant page whereof is part of record. Perusal would further divulge that in reply mail by OP admitted the aforestated position it was stated that **“there has been some issue that has been sorted out”**. Perusal would further more divulge that having taken note of the reply mail complainant asked OP to identify the issue/snag that was removed or rectified but to dismay of complainant OP thereafter never bothered to communicate with the complainant in any form whatsoever. A deeper scrutiny of materials/evidences would reveal that complainant could not avail credit card facility for a reason unbeknown to him and best known to OP. Be that as it may, credit card (supra) would operate only under the complete control and supervision of OP and as such without any wrong doing/default from complainant, OP is to be held liable for any snag or issue depriving complainant from using/utilizing credit card facility. That being so, OP was under obligation to keep the system in gear to ensure that sufficient service is rendered to complainant. That having not been done, such action on the part of OP tantamounts to deficiency in service.

Therefore, in the backdrop of preceding discussions, OP is held guilty of being deficient in service. It is also acknowledged



that due to such action of the OP, complainant has suffered mental pain, agony, harassment and financial loss.

Accordingly, complaint is allowed and OP is directed as under:-

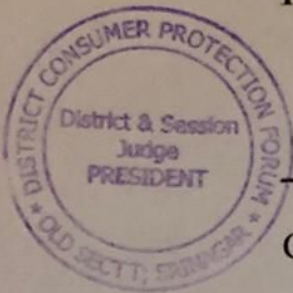
1. To pay Rs 40,000/- (Rupees forty thousand) as compensation for mental pain, agony, harassment and financial loss;
2. To pay Rs 10,000/- (Rupees ten thousand) as litigation charges to the complainant.

The order shall be complied with by the OP within thirty days from the date of receipt of its certified copy, in default whereof the amounts under S. No 1 shall carry interest @ 12 % p.a. from the date of default till actual realization.

Disposed. Consign to records after its due compilation.

Copy of the order be send to the OP for compliance.

Announced:-
12-02-2019



Sd/-

Member(s)

Sd/-
President
DCPF, Srinagar.

Copy forwarded to OP through counsel for compliance.

(a) *am*
Mohammad Ashraf Malik
(Distt. & Sessions Judge)
President
DCPF, Srinagar.