

(1996) 12 NCDRC CK 0024

In the National Consumer Disputes Redressal Commission

Atul Sharma

APPELLANT

Vs

SECRETARY POST AND TELEGRAPH DEPARTMENT OF POSTS

RESPONDENT

Date of Decision : 17-12-1996

Acts Referred:

Citation : 1997 1 CLT 746 : 1997 1 CPC 8 : 1997 3 CPJ 628

Hon'ble Judges : P.N.Nag , Krishana Tandon J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal has been filed by the complainant/appellant against the dismissal of his complaint by the District Forum, Mandi on 5.8.1996.

2. THE facts giving rise to the complaint are that the complainant applied to respondent No. 3 for All India Management Aptitude Testing Service and submitted an application alongwith a Bank Draft on account of requisite fee to them through registered post by delivering the registered cover at Post Office, Mandi on 11.10.1995 well within time as the last date for submission of such application was 1.11.1995. However, the cover containing the application and bank draft was delivered back to the complainant on 14.11.1995 and by that time the last date for submission of the application/form was already over. This resulted in the loss of valuable opportunity to the complainant to make his career. THE complaint has, therefore, been filed in which a compensation of Rs. 4,00,000/- on account of injury caused to him has been claimed, which is directed primarily against the respondent Nos. 1 & 2, Secretary, Posts & Telegraph Department, Government of India and Postmaster General, New Delhi, who according to the complainant, are responsible for non-delivery of the registered cover containing application and bank draft to the respondent Nos. 1 & 2. THE respondent Nos. 1 & 2 have taken the stand that they are immune from the liability in view of the provisions of Section 6 of the Indian Postal Office Act. Section 6 of the Act provides: "Section 6: THE Government shall not incur any liability by reasons of the loss, misdelivery or delay or damage to any postal article in course of transmission by post except in so far as such liability may in

express be undertaken by the Central Government as hereinabove provided, and no officer of the Post Office shall incur any liability by reason of any such loss, misdelivery, delay or damage, unless he has caused the same fraudulently or by his willful act or default."

This Section, no doubt, in the aforementioned facts and circumstances of the case bars the claim of the complainant, in this context in a similar case Senior Post Master, G.P.O. v. Akhil Bharatiya Grahak Panchayat & Anr., II (1995) CPJ 230 (NC)=1995 (2) CPR 267 the observations and findings of the National Commission in para 3 of the order may be noticed. An extract of order is reproduced below: "We are of the opinion that the said submission made by the learned Counsel has force. Section 6 bars the claim of the complainant. There is no allegation that the article was lost by any fraudulent or willful act or default of any of the official of the Post Office. Unless these are alleged and proved by the complainant, he is not entitled to claim relief by way of compensation for loss, misdelivery or delay or damage to any postal article in the course of its transmission. Therefore, in the present case the complaint was liable to be dismissed."

In the present case, no allegation has been made in the complaint that the post cover was not delivered because of any fraudulent or willful act or default on the part of any official of the post office.

3. IN the light of what is discussed above and the authoritative pronouncement of the National Commission, we have no hesitation to hold that Section 6 of the INdian Post Office Act bars the claim of the complainant. There is no force in this appeal and the appeal is accordingly dismissed with no orders as to costs. Appeal dismissed. _____