
(2003) 09 NCDRC CK 0074

In the National Consumer Disputes Redressal Commission

DIRECTOR POSTAL SERVICES, A And N ISLANDS APPELLANT
Vs
SHYAMALI GANGULY RESPONDENT

Date of Decision : 26-09-2003

Acts Referred:

Citation : 2003 3 CLT 582 : 2003 4 CPJ 65 : 2004 1 CPC 12 : 2004 3 CPJ 60

Hon'ble Judges : K.S.Gupta , Rajyalakshmi Rao , B.K.Taimni J.

Final Decision : Revision Petition allowed

Judgement

1. PETITIONER was the opposite party before the District Forum.
2. BRIEF facts of the case leading to filing of complaint by the respondent/complainant were that the complainant sent speed post money order (SPMO) on 1.3.2001 from Port Blair to Calcutta. This should have been delivered within 48 hours but instead it came to be delivered only on 10.3.2001 causing undue hardship to her mother for whose treatment and upkeep this money was required badly. Alleging deficiency in service on the part of the petitioner, a complaint was filed before the District Forum at Port Blair, who after hearing the parties allowed the complaint and directed refund of Rs. 100/- taken by the petitioner as charges for SPMO and Rs. 2,500/- as compensation. Respondent/complainant filed an appeal for enhancement of compensation which was allowed by the State Commission and enhanced the compensation to Rs. 12,500/-. This amount was to be recovered from the concerned officials. Aggrieved by this order the petitioner has filed revision petition before this Commission.

The respondent/complainant remained absent despite notice hence proceeded ex parte.

3. WE heard the learned Counsel for the petitioner and perused the material on record. In our view both the lower Forums went wrong on the law on the subject. Post Offices are protected by Section 6 of the Post Office Act, which reads as under: "6. Exemption from liability for loss, misdelivery, delay or damage.-The Government shall not incur any liability by reason of the loss, misdelivery or

delay of, or damage to, any postal article in course of transmission by post, except insofar as such liability may in express terms be undertaken by the Central Government as hereinafter 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 wilful act or default."

Inland Speed Post Service was created with the introduction of Rule 66B in the Indian Post Office Rules, 1933 effective 1.8.1996. These rules were further amended by Notification No. GSR 40(E) dated 21.11.1999, which inserted the following condition after condition (5) of Rule 66B: "In case of any delay of domestic speed post articles beyond the norms determined by the Department of Post from time to time, the compensation to be provided shall be equal to the composite speed post charge paid. In the event of loss of domestic speed post article or loss of its contents or damage to the contents, compensation shall be double the amount of composite speed post charges paid or Rs. 1,000/- whichever is less."

4. SECTION 6 of the Post Office Act was interpreted by this Commission in *Post Master, GPO v. Akhil Bhartiya Grahak Panchayat, II* (1995) CPJ 230 (NC). Wherein we had clearly held that the section clearly exempts any liability of Postal authorities in case of delay etc. the less loss or delay is caused fraudulently or wilful act or default. Both the lower Forums have not returned any finding on any wilful default. They have compensated for the delay in delivery. Under the Statutory Rules framed in respect of speed post, maximum that can be done in case of delay in delivery of speed post article is to reimburse speed post charges paid. We have upheld the above in the case of *Head Post Master, Post Office Railway Road, Kurukshetra v. Vijay Rattan Aggarwal*, decided by this Commission on 18.9.2002 in Revision Petition No. 15 of 1997 and others. In the instant case at best the complainant could get Rs. 100/- which she paid as SPMO charges and only this part of the order is upheld. In view of our own judgment (*supra*) on the subject at issue, we are unable to sustain the orders of both the lower Forums in granting compensation-which is contrary to law-hence set aside. This revision petition is allowed in above terms. Keeping in view the facts of the case, no order on costs. Revision Petition allowed.