
(2006) 02 NCDRC CK 0059

In the National Consumer Disputes Redressal Commission

POST MASTER, PATNA

APPELLANT

Vs

Anil Kumar Gupta

RESPONDENT

Date of Decision : 15-02-2006

Acts Referred:

Citation : 2006 2 CPC 722 : 2006 3 CPR 89 : 2006 4 CPJ 25 : 2007 1 CLT 25

Hon'ble Judges : D.P.S.Choudhary , Anil Kumar Verma , G.Venkataraman J.

Final Decision : Appeal dismissed

Judgement

1. THE appellants are P.M.G. Post, Patna and the Senior Superintendent of Post Office, Patna. THE respondent is Anil Kumar Gupta.

2. THE appeal is against an order dated 2.9.1999 passed by District Forum, Patna in Complaint Case No. 588/1994 whereby the District Forum directed the O.Ps. (appellants) to pay Rs. 5,000 as compensation to the complainant as the speed post article sent by him after payment of charges was not delivered to the addressee at Lucknow within time. After notice, the respondent personally appeared on 26.12.2000 and got copy of the appeal and petitions for condonation of delay and stay and yet remained absent on four consecutive dates. Hence, the matter was heard ex parte. Briefly the complaint was that he had sent an application to the U.P. Subordinate Service Commission with Bank Draft on 28.4.1994 by speed post paying the charges of Rs. 30. The last date for the receipt of applications in U.P. was 30.4.1994. But his letter was returned to him on 6.5.1994 that it was received after the last date. The articles sent by speed post should have been delivered on the next day viz., 29.4.2000. Thus, he lost the chance to take the examination and get a job. Hence, the complaint was filed.

From the impugned order it appears that the O.Ps. (appellants) had taken a plea before the District Forum that because there was no air flight connection between Patna and Luknow, except on Tuesday, Wednesday and Friday. The speed post article was sent to the G.P.O., Patna on 29.4.1994 who sent it to Lucknow on 30.4.1994 by the morning train on 30.4.1994 and the same was

received in Lucknow on the same day in the evening. However, because 1.5.1994 was a holiday being a Sunday, the article was delivered on 2.5.1994. The learned District Forum held that when the department had accepted that articles by speed post are to be delivered within the next day and 72 hours and when according to the submission of the O.Ps. an air flight between Patna and Lucknow was available on Friday, they could have sent it either by the flight on Friday or by a train leaving Patna on Friday morning. However, they sent it by train on 30.4.1994 which defeated the purpose of a speed post and the application was not accepted as being received after the due date. The claim that after sending it on 30.4.1994 morning, not delivering it the next day being a holiday as Sunday is clearly deficiency in service of the department.

3. THE plea in the appeal is that the complaint was not maintainable because of Section 6 of the Indian Postal Act. Further there is no allegation against any particular person in the department regarding wilful default or mala fide. We have heard the Counsel for the appellant and perused the records. The admitted fact is that an article booked by speed post on 28.4.1994 (which was a Thursday) was delivered to the addressee only on 2.5.1994, which is after more than 72 hours, which the department claims that they are bound to deliver. When the speed post article had been received at Lucknow on 30.4.1994 and delaying its delivery to 2.5.1994 on the plea that 1.5.1994 was a Sunday cannot be accepted as satisfactory explanation. The appellants have also not been able to explain why the speed post article received on 28.4.1994 which was a Thursday, why it was not sent the next day by plane service or by a morning train on that date.

4. IN such circumstances, the Post and Telegraph Department cannot take Section 6 of the Act as an excuse for delayed delivery, when facts of the case clearly establish lapses on their part. Therefore, deficiency in service of the Postal Department authorities is clearly established. Whether the complainant would have been able to appear in the examination and secure a job if the speed post article had been delivered before the last date is a different matter. That he could not appear at the examination and take his chance because of delayed delivery is established. Under such circumstances, the order of the learned District Forum for payment of Rs. 5,000 to the complainant is quite reasonable. In result, we find no merit in the appeal which is dismissed and the impugned orders are upheld. There shall however be no order as to cost. Appeal dismissed.