
(1998) 05 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

Postmaster

APPELLANT

Vs

MOHD.FASIUDDIN

RESPONDENT

Date of Decision : 19-05-1998

Acts Referred:

Citation : 1999 3 CPJ 244

Hon'ble Judges : S.Parvatha Rao , T.Ranga Rao J.

Final Decision : Orders passed

Judgement

1. THIS appeal has been filed with an application F.A. I.A. No. 538 of 1998 for condoning the delay of 36 days in presenting the appeal. The appellants state that the copy of the order of the Nalgonda District Forum was received on 9.3.1998 itself. The appeal ought to have been presented by 8.4.1998. However it was presented on 12.5.1998. The delay was explained as due to procedural formalities. In the affidavit in support of the application for condoning the delay the explanation given for the delay after the matter was referred to the Postmaster General, Hyderabad Region, Hyderabad by letter dated 26.3.1998, is as follows : "The Postmaster General, Hyderabad Region in turn examined the case and taken a decision to carry the matter in appeal and due to non-receipt of copy of judgment order dated 20.2.1998 of Hon"ble District Forum, Nalgonda from the appellants, the PMG, Hyderabad Region contacted the appellants which sent by the appellant vide his letter dated 3.4.1996 and received by the later on 6.4.1996. In the meanwhile public holidays/Saturday/Sunday have taken place from 8.4.1998 to 12.4.1998 and 14.4.1998 and due to procedural formalities there is delay of 36 days in filing this appeal."

2. FROM the above we do not find that there is any explanation whatsoever for the delay after 14.4.1998 till 12.5.1998 the date when the appeal was presented. Thus no sufficient cause is made out for condoning the delay. The application for condoning the delay is, therefore, dismissed and consequently the appeal F.A. S.R. No. 1464/1998 is rejected. After going through the order under appeal we do not find any merit in this appeal preferred by the two opposite parties in C.D.

No. 32 of 1996 questioning the order of the Nalgonda District Forum dated 20.2.1998 allowing the complaint of the respondent herein and directing the appellants to return the sum of Rs. 2,000/- with interest @ 12% per annum from 7.3.1996 till payment and pay compensation of Rs. 1,000/- for mental agony and physical torture suffered by the complainant and Rs. 500/- towards costs.

The facts of this case make a sad tale. The complainant admittedly booked a Telegraphic Money Order at Nalgonda Head Post Office on 7.3.1996 for Rs. 2,000/- payable to one Mrs. Rasheed at New Delhi. According to the complainant the amount was sent for purchase of costly medicines which were necessary for his father who was suffering from diabetes and from paralytic stroke. The complainant found that the amount was not received by Mrs. Rasheed. He lodged a complaint on 29.3.1996 requesting the appellants to inform whether the Telegraphic Money Order was paid to the payee or not. This fact was also admitted by the appellants in the counter filed by them before the District Forum. In the counter itself the appellants stated that only thereafter they made enquiries and then finally they forwarded duplicate advice through registered letter No. 2035 dated 14.9.1996. They stated that even then they did not receive any communication from New Delhi. They further stated that thereafter the department took a decision to pay back the value of the Telegraphic Money Order to the remitter and the Public Relations Inspector (Postal), Nalgonda personally approached the complainant and requested him to take payment of the value of the Telegraphic Money Order on 22.11.1996, 23.11.1996, 24.11.1996, 25.11.1996, 26.11.1996 and 27.11.1996. According to them the complainant stated that he had to consult his Advocate in that regard. They further stated in their counter that they were ready to pay the value of the Telegraphic Money Order to the complainant. Two facts stand out. Firstly the appellants did not deposit the amount of Rs. 2,000/- in the District Forum alongwith their counter. Secondly they do not state whether they gave a reply to the complaint dated 29.3.1996 admittedly lodged by the complainant. The learned Counsel for the appellants before us also is not able to state whether any reply was given to the said complaint dated 29.3.1996 lodged by the complainant.

3. THE fact remains however that the complainant approached the Nalgonda District Forum for redress claiming compensation of Rs. 53,168/- which includes the commission paid by him on the Telegraphic Money Order amount, telephone call expenses from Nalgonda to Delhi to know whether the amount reached the addressee or not, D.D. Commission and postal expenses for sending Rs. 3,000/- by way of D.D. postal expenses for writing registered letters to the appellants making enquiries as regards whether payment was affected or not under the Telegraphic Money Order, miscellaneous expenses and Rs. 50,000/- towards mental agony and physical torture suffered by him. After considering all the facts of the case the District Forum directed the appellants to make payments as already stated earlier. The learned Counsel for the appellants submits that as the appellants were throughout willing to pay the amount of Rs. 2,000/-, that part of the order is not being questioned. He submits that the appellants are aggrieved

because they were directed to pay also interest on the said sum @ 12% from 7.3.1996 and also compensation of Rs. 1,000/- for mental agony and physical torture.

4. WE asked the learned Counsel for the appellants as to what interest would be paid by the postal department on deposits made by the public in post offices. He stated that depending on the term of the deposit it would be vary from 9% to 11.5%. In the present case admittedly the sum of Rs. 2,000/- was entrusted to the Postal Authorities on 7.3.1996 itself. The amount was not even deposited in the District Forum and, as already observed by us earlier, there was no reply given by the department to the complaint dated 29.3.1996 lodged by the complainant. Admittedly the said sum of Rs. 2,000/- has not been paid till now. Thus the said sum of Rs. 2,000 / - has been lying with the Postal Authorities for more than two years. In the circumstances we find that 12% per annum is a reasonable interest fixed by the District Forum. As regards compensation of Rs. 1,000/- towards mental agony and physical torture we find that the amount awarded, considering the facts of the case, is very reasonable. The learned Counsel states that the postal department renders service to the public and that has to be kept in view in considering whether compensation should be awarded or not. We can only observe that the question whether the postal department does service or not depends upon how it functions. The facts of the present case illustrate that there is much to be desired in the working of the postal department in the present case. The learned Counsel of the appellants states that the complainant had not given full and correct address and because of that the Telegraphic Money Order could not be delivered to Mrs. Rasheed. That reason was not stated in the counter filed by the appellants before the District Forum and the learned Counsel has not placed any material before us to substantiate the same - no ground to that effect has been taken in the Memorandum of Appeal. Even assuming that to be the reason for non-delivery, there ought not to have been a delay of more than two weeks for offering to return the sum of Rs. 2,000/- to the complainant. As it happened in the present case, even after the complainant approached the authorities on 29.3.1996 enquiring as to what happened to his Telegraphic Money Order, no reply was given to him and the authorities concerned moved in the motion of a snail in order to find out what happened. Even after the complainant approached the District Forum they did not deposit the sum of Rs. 2,000/-. This shows gross lack of concern for rendering service on the part of the Postal Authorities. Deficiency in service screams loud in this case. We cannot also lose sight of the purpose for which the complainant sought to send the sum of Rs. 2,000/- i.e., for the purchase of medicines required for his father who was suffering from diabetes and partial paralysis. The complainant stated that he spent Rs. 113/- for TMO commission, Rs. 1,000/- for making telephone calls from Nalgonda to Delhi making enquiries as whether the amount was received by the addressee, Rs. 40/- for purchasing and sending a demand draft for Rs. 3,000/- because the TMO was not paid, etc. Some of this expenditure cannot reasonably be doubted. In the circumstances

we do not find any basis for interfering with the order of the District Forum granting a sum of Rs. 1,000/- towards compensation. In the result, we do not see any ground for interfering with the order under appeal even invoking our jurisdiction under Section 17(1)(b) of the Consumer Protection Act, 1986. Orders passed.