

(1995) 03 NCDRC CK 0047

In the National Consumer Disputes Redressal Commission

SENIOR POST MASTER, G.P.O., PUNE

APPELLANT

Vs

AKHIL BHARATIYA GRAHAK PANCHAYAT

RESPONDENT

Date of Decision : 08-03-1995

Acts Referred:

Citation : 1995 2 CLT 625 : 1995 2 CPJ 230 : 1995 2 CPR 267 : 1995 3 CTJ 389

Hon'ble Judges : V.Balakrishna Eradi , B.S.Yadav , S.S.Chadha ,
R.Thamarajakshi J.

Final Decision : Petition dismissed

Judgement

1. THIS is a revision petition filed against the order dated 1.11.1993 of the State Commission of Maharashtra at Bombay in Appeal No. 331 of 1991 by which it affirmed the order of District Consumer Redressal Forum, Pune.

2. THE brief facts are that Akhil Bharatiya Grahak Panchayat filed the complaint against the petitioner on behalf of the Respondent No. 2 Shri V.P. Sardana before the said District Forum. Shri V.P. Sardana had sent a registered parcel to Mhow from Pune which was lost in transit and was not delivered to the addressee. THEREfore, he alleged negligence in the service of the Postal Department and claimed compensation. THE District Redressal Forum, Pune allowed the complaint and directed the Postal Department to pay Rs. 1,500/- to the complainant on account of loss of the contents of the parcel. This amount includes compensation for deficiency in the service and costs of the proceedings. THE department filed an appeal before the State Commission but did not succeed and hence has filed this Revision Petition before this Commission. The learned Counsel for the petitioner rightly argued that Section 3 of the Consumer Protection Act only provides additional remedy for the redressal of a grievance but if the remedy is barred under any other law, no relief can be granted under the Act. He drew our attention to Section 6 of the Indian Post Office Act which reads as follows:-
"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 wilful act or default."

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 wilful act or default of any of the official of the Post Office. Unless there 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.

Before we close, we may mention that the following observations made by this Commission in Revision Petitions No. 175 of 192 and 247 of 1992 decided on 15th April, 1992 are causing some confusion. These remarks are as follows: "Under the scheme of the Act the claim for compensation will lie at the instance of the consumer only if there is deficiency in service. According to the Revision Petitioners the statutory protection to the Central Government which is in absolute terms stands as an exception to the general law relating to the commercial carriers. Post Office is a branch of public service functioning under a statute and the liability for misdelivery or late delivery of an article can be fastened on the postal department or its officers only on the basis of express provisions of the Post Office Act. The services rendered by the Post Office are merely statutory and there is no contractual liability. In establishing the Post Offices and running the postal service the Central Government performs a governmental function and the Government does not engage in commercial transaction with the sender of the article through post and the charges for the article transmitted by post as in the nature of charges imposed by the State for the enjoying of the facilities provided by the Postal Department and not in consideration of any commercial contract. The Post Office cannot be equated with a common carrier."

It is necessary to make it clear that the above observations do not embody the expression of the view of this Commission but were only narrating the arguments put forward on behalf of the petitioner. This Commission has not held that in undertaking the carriage of articles transmitted by post the Postal Department is not performing a service which it has contracted to carry out for consideration.

3. IN view of the discussions made in para No. 3 of this order, we accept the present Revision Petition, set aside the orders of the District Forum as well as the State Commission and dismiss the complaint filed by the present respondents. We make no order as to costs. Petition dismissed.