

(2008) 01 NCDRC CK 0082

In the National Consumer Disputes Redressal Commission

SENIOR SUPDT OF POST OFFICES

APPELLANT

Vs

SEWA RAM VERMA

RESPONDENT

Date of Decision : 07-01-2008

Acts Referred:

Citation : 2008 1 CPJ 398 : 2009 2 UAD 74 : 2010 1 UC 526

Hon'ble Judges : Irshad Hussain , C.C.Pant J.

Final Decision : Appeal partly allowed

Judgement

1. -THIS is postal department's appeal against the order dated 11. 10. 2006 passed by the District Consumer Forum, Haridwar, allowing the Consumer Complaint No. 106 of 2006, Sh. Sewa Ram Verma v. Senior Supdt. of Post Offices, Dehradun and Another and directing the appellants to pay a sum of Rs. 30 towards postal charges; Rs. 7,000 as compensation and Rs. 1,500 towards cost of litigation to the complainant.

2. BRIEFLY stated the facts of the case as alleged in the consumer complaint are that the complainant-respondent had sent a speed post envelope on 25. 11. 2002 through Ram Nagar office of the appellants to Medical Officer and Family Department, Pauri Garhwal. The said envelope contained application for recruitment on the post of driver in the said department, but on 30. 11. 2002, when the son of the complainant went to the said office for appearing in the interview, he was apprised of the fact that his application had not been received. On 27. 12. 2002, the complainant wrote a letter to Post Master, Ram Nagar, Roorkee and enquired about the said registered envelope. By letter dated 31. 12. 2002 issued by Supdt. of Post Offices, Dehradun, the complainant was informed that the inquiry is going on and he will be informed accordingly. On 15. 2. 2003, the complainant sent a reminder to Supdt. of Post Offices, Dehradun, but no reply was received. The complainant alleged deficiency in service on the part of the appellants and with the above allegations, filed consumer complaint before the District Forum. The postal department filed written statement before the District Forum and pleaded that the inquiry could not be concluded because the

complainant had given an incorrect speed post number in his complaint. However, non-delivery of the speed post article was admitted. It was argued that there was no deficiency or negligence in the postal department's services and the consumer complaint merit dismissal.

The District Forum on an appreciation of the material on record, allowed the consumer complaint as above vide impugned order. Aggrieved by the order of the District Forum, the present appeal has been preferred by the postal department.

3. WE have heard the learned Counsel for the parties and carefully perused the material on record and legal aspect of the case. Learned Counsel for the appellants drew our attention to the provisions of Section 6 of the Post Office Act, 1898, 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. "

4. LEARNED Counsel for the appellants urged that in the light of the aforesaid statutory provision, Post Office is exempted from any liability for loss, misdelivery, delay or damage of any article in course of transmission by post, except to such extent as may be undertaken by the Government in express terms. An officer of the Post Office is similarly exempted from any liability unless and until, it is proved that the loss, misdelivery, delay or damage was caused by his fraudulent or wilful act or default. In the complainant's case, it could not be proved that the speed post article was lost in transit due to any officer's fraudulent or wilful act. Therefore, the order passed by the District Forum is in contradiction to the statutory provision. Learned Counsel requested to set aside the impugned order and allow the appeal. On the other hand, the learned Counsel for the respondent supported the view taken by the District Forum and prayed that the order passed by the District Forum be upheld and the appeal be dismissed. As is evident, Section 6 of the Post Office Act, 1898 consists of two parts. The first part relates to the extent of the liability which may be undertaken by the Govt. in express terms for loss, misdelivery, delay or damage of any postal article in course of transmission by post. No specific provision appears to have been made so as to fasten the Post Office with a specific liability for delay in the delivery of the postal article. The second part exempts the officers of the Post Office from liability for loss, etc. of postal article unless and until it is proved that the loss, etc. had been caused by him fraudulently or by wilful act or default. Section 6 had been so dealt with and divided into two parts to assess the liability of the Govt. /post Office/officials of the Post Office by the National Commission in the case of Senior Post Master, G. P. O. , Pune v. Akhil Bharatiya Grahak

Panchayat and Another; II (1995) CPJ 230 (NC) and in the case of Post Master, Imphal and Others v. Dr. Jamini Devi, Sagolband, I (2000) CPJ 28 (NC).

5. THE District Forum has given a finding that due to the negligence of the postal department, the son of the complainant could not appear in the interview and, as such, could not get the job and his future has become dark. In our opinion, this finding is not correct and sustainable. There was no certainty that the son of the complainant could have got the job, for which the application was sent. It need to be stated that scheme of "speed post" has been provided under Indian Post Office Rules, 1933 by inserting Rule 66-B and the same reads as below: "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. "

6. THE relevant rule was interpreted by the Hon''ble National Commission in the matter of Head Post Master, Post Office Railway Road, Kurukshetra, Haryana and Others v. Sh. Vijay Rattan Aggarwal and connected matters Revision Petition Nos. 15/1997, 1006/2001 and 1035/2002, decided on 18. 9. 2002) and in another Revision Petition No. 114/2005, III (2006) CPJ 120 (NC), Union of India v. Dr. Puran Chandra Joshi by order dated 30. 3. 2006 and it had been held that in respect of speed post article, maximum that can be done in case of delay in delivery of the article is to reimburse speed post charges paid. In view of it, the complainant was only entitled to be reimbursed by speed post charges paid in relation to the speed post article in question. In view of above discussion, the appeal succeeds partly and stands disposed of accordingly.

Appeal is partly allowed. Impugned order dated 11. 10. 2006 of the District Forum is modified to the extent that the complainant is held entitled to Rs. 30, the speed post charges paid and Rs. 1,000 as expenses of the litigation, to be paid within one month from the date of this order by the appellants. Appeal partly allowed.