

(2005) 11 NCDRC CK 0020

In the National Consumer Disputes Redressal Commission

Senior Superintendent of Post Offices

APPELLANT

Vs

KUZHUMAI APPAN

RESPONDENT

Date of Decision : 25-11-2005

Acts Referred:

Citation : 2006 1 CPJ 550

Hon'ble Judges : K.Sampath , PonGunasekaran J.

Final Decision : Appeal dismissed

Judgement

1. THE opposite parties in O.P. No. 7/2000 on the file of the District Consumer Disputes Redressal Forum, Thanjavur, are the appellants. THE complainant filed the complaint on the following allegations: He owns agricultural land in Vennalodai village in Thanjavur Taluk. In respect of the same, there are several cases between him and others including the Inspector and Sub-inspector of Police, Kala Perambur Police Station. In respect of the said cases, notices have to be sent to various authorities. On 7.10.1999, the complainant sent two registered letters with acknowledgement due through the Head Post Office, Thanjavur, the receipt numbers being 3213 and 3214 and the letters were sent to the Inspector and Sub-Inspector of Police, Kala Perambur Police Station. Similarly, through his lawyer Mr. K. Vaidhyalingam, two notices were sent under registration numbers 1276 and 1277 to the Inspector and Sub-Inspector of Police already referred to in the complaint. THE complainant had also paid Rs. 19 towards registration charges. THE Inspector and Sub-Inspector of Police had colluded with the 3rd opposite party and had returned the notices on 22.10.1999 without receiving them. In the returned covers, endorsements to the effect that they searched for several times but the addressees were not found, had been made. It was wrong on the part of the 3rd opposite party to have returned the covers with such false endorsements. THE addressees were Government employees and because they were required to be available all the 24 hours at the Police Station, the notices were addressed to the Police Station concerned. Even if they were not there, somebody else would have been available to receive the complaint and such a person should have been served with the notice and endorsement obtained. THE

3rd opposite party had deliberately got the covers returned. THEREafter the complainant addressed the 1st and the 2nd opposite parties asking them to take action against the 3rd opposite party. THE 1st and the 2nd opposite parties asked for Xerox copies of the endorsements made in the returned covers. This they did on 28.10.99 and 29.10.99. THE complainant sent the Xerox copies on 13.11.99 to the 1st and the 2nd opposite parties. After receipt of the same, the 1st opposite party sent all the documents for inquiry. THE 2nd opposite party, with a view to protect the 3rd opposite party, conducted an eye-wash inquiry and sent a reply stating that as the addressees were not there at the address, intimation was given on 13.10.99. As there was no claim till 22.10.99, the letters were returned to the sender. This was false and against the truth. This would be evident from the fact that in the registered cover, there are endorsements as if the 3rd opposite party had gone in search of the addressees every day from 13.10.99. If as alleged by the 2nd opposite party intimation had been given and there was no response, endorsement to that effect should have been made. On the contrary, the endorsement found is that "not found for several beats". THERE is nothing to show that any intimation was given to the addressees. Stating all these things, the complainant addressed letters to the 1st opposite party and the 2nd opposite party on 12.12.99 asking them to conduct fresh inquiry. THE 2nd opposite party asked for the original of the letters for inquiry. THE complainant informed him that there was no difference between the original and the copies and that at the time of inquiry he would produce the original. This letter was dated 13.11.99. THERE was no further inquiry by the opposite parties 1 and 2 and their intention was to protect the 3rd opposite party. In these circumstances, alleging deficiency in service, the complaint was filed claiming Rs. 1 lakh as compensation, Rs. 200 as expenses and Rs. 500 towards cost of the complaint.

2. THE 2nd opposite party filed a version which was adopted by the opposite parties 1 and 3 and the same is to the following effect: THE registered letters entrusted with the Post office at Thanjavur were taken by the Extra Departmental Delivery Agent [EDDA] to Kalla Perambur for delivery. As the addressees were not available at the Kalla Perambur addresses, endorsement to the effect that the addressees were absent were made and the letters were handed over to the Assistant in the Post Office. THE Branch Post office Assistant at Kalla Perambur kept the letters with him the whole day and the next day handed them over to the EDDA for delivery. From 9.10.99 to 13.10.99 the EDDA took the letters for delivery to the addressees, but they were not found there. A message was given that the letters had to be taken delivery of at the Post Office. However, till 20.10.99, the addressees did not come to the Post Office to receive the letters. Though a message had been left, the EDDA tried to deliver the letters between 14.10.1999 and 20.10.1999. However, thereafter, on 22.10.99, as per the Post Office rules, the letters were returned to the complainant. Immediately on receipt of the complaint from the complainant on 1.11.1999 that the letters had not been delivered, there was an inquiry conducted and the results were informed to the complainant. It was not correct to say that the opposite parties 1

and 2 had not done proper enquiry. However, when the complainant made a request for re-inquiry, a re-inquiry was commenced. At that time, to examine the writing on the cover, the complainant was asked to give the letters, but the complainant sent only Xerox copies. THERE was an inquiry by the Assistant Superintendent of Post Offices, Tanjavur (South) and in that inquiry it was found that his opinion was in conformity with what had originally been obtained. THEREafter, the Assistant Superintendent of Post Officer fell ill and he went away on short leave. Even before the result of the inquiry could be informed, the complainant had moved the Consumer Forum. THE result of the inquiry was also communicated to the complainant. THERE was no deficiency in service on the part of the opposite parties. THE post office was not liable to pay any compensation to the complainant. As per Post Office Rule 71, the registered posts could be kept only for a period of seven days and thereafter they had to be returned to the sender. Again, as per Section 6 of the Post Office Act, in case of delay or non-delivery of letters or mistake in delivery, the Postal Department could not be held responsible. THE complaint was liable to be dismissed. On the side of the complainant Ex. A-1 to Ex. A-16 were marked and on the side of the opposite parties, Ex. B-1 to Ex. B-7 were marked.

The District Forum framed the following points for determination: 1. Whether there was deficiency in service on the part of the opposite parties on account of the non-delivery of the letters to the persons to whom they were addressed? 2. To what relief the complainant was entitled?

3. THE District Forum held on the materials placed before it that there was deficiency in service on the part of the opposite parties; that they had deliberately not delivered the letters to the addressees; that they were liable in a sum of Rs. 5,000 towards compensation and Rs. 500 towards cost. By order dated 20.6.2000, the complaint was allowed on the above terms. It is as against that the present appeal has been filed. We have carefully gone through the order of the District Forum and in our view, no exception whatsoever can be taken to the conclusion reached by the District Forum. The District Forum has elaborately considered the material records and found that the opposite parties had not acted properly; that they had deliberately not delivered the letter to the addressees and, therefore, they were liable to compensate the complainant. In particular, the District Forum pointed out that if as stated by the opposite parties that as per the records available the Post Office Assistant had made an endorsement on 22.10.99 directing return of the letters to the sender and in the version they had also stated that this was done as per the Post Office rules, in Exs. B5 and B6 the word "absent" has been written on 23.10.99 and somebody had initialled it. If as contended by the opposite parties the letters had been returned even on 22.10.99 there was no need to make an endorsement on 23.10.99. Again, if as contended by the opposite parties the word "absent" found in Exs. B-5 and B-6 had been written by the 3rd opposite party, he ought to have been examined. But it had not been done. Further, he had not filed any version. If it is so as stated in the version of the 2nd opposite party, it cannot be said that

the word "absent" for seven days had been written by the 3rd opposite party. If really as contended by the opposite parties some information had been given that the registered letters had come and the same had been informed to the addressees, it had not been made clear as to through whom it was done. It had also not been stated in the version of the opposite parties. It was also not argued by the learned Counsel for the opposite parties. It is also not made clear whether it was made orally or in writing. If it had been in writing, a copy of the same should have been available with the opposite parties. But the same had not been filed in the Court. The EDDA had not been examined. The Post Office Assistant's proof affidavit had also not been filed before the Forum. If really as contended by the opposite parties every thing had been done as per the rules, then, it escapes one's comprehension as to why no statement was taken from the duty sentry at the Police Station. It could not also be said that there would not be anybody responsible to receive the letters addressed to the Station. Those letters had not been sent to the Inspector and the Sub-Inspector in their individual capacity. They had been sent in their official capacity. It was the duty of the person at the Police Station to have received the letters. From the above, it would be clear that the two registered letters addressed to the Inspector and the Sub-Inspector had deliberately not been delivered to them. Further, the opposite parties 1 and 2 had not conducted a proper inquiry and had not taken action against the person responsible for the dereliction of duty. There was, therefore, deficiency in service. The Rules relied on by the opposite parties also do not help their contention. The Rules are clear to the effect that if the letters are not delivered to the addressee intentionally then, the person responsible should be answerable. The conclusion reached by the District Forum is absolutely correct and consequently the appeal has to be dismissed.

4. IN the result, the appeal is dismissed. However, there will be no order as to costs. Appeal dismissed.