
(2001) 01 NCDRC CK 0041

In the National Consumer Disputes Redressal Commission

SUPERINTENDENT OF POST OFFICES

APPELLANT

Vs

NARESH CHANDRA SRIVASTAVA

RESPONDENT

Date of Decision : 31-01-2001

Acts Referred:

Citation : 2001 2 CPJ 481

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : Appeal partly allowed

Judgement

1. THIS is an appeal against the judgment and order dated 30.7.1992 passed by District Consumer Forum, Rae Bareilly in Complaint Case No. 30 of 1992.

2. THE facts of the case stated in brief are that the complainant is a teacher in Postgraduate" College,. Singaramau in District Jaunpur in B.Ed, classes. His daughter is a student of B.A. Illrd year in Sachinachandra Vanasthali Vidyapeeth, Rajasthan. His daughter was selected for Youth Festival which was to be celebrated in Nagpur. His daughter, for attending the Youth Festival, requested for a sum of Rs. 500/- as expenses. On 4.11.1991 at 10.30 a.m. the complainant sent this amount from Post Office, Rae Bareilly by telegraphic money order This money order did not reach the destination within time. Km. Sanchita Chandra, the daughter of the complainant, when came to Rae Bareilly was very furious that the money was not sent to her by money order. When she came to know that the money order was sent, she became very depressed on account of her non-participation in the Youth Festival. She had to suffer mentally as well as physically. THE complainant has prayed for Rs. 2,000/- as compensation on this account and Rs. 500/-, the amount sent by money order and a further sum of Rs. 300/- spent for correspondence. Rs. 33.50 spent as commission for sending the money order was also claimed. The opposite party in the written version had admitted that a telegraphic money order was sent on 4.11.1991 but on 5.11.1991 due to holiday of Deepawati it was not distributed. Thereafter the addressee was not available at the address. Hence the amount was sent to Rae Bareilly at the address of the complainant. The complainant was also not

available at his residence. Hence it was sent to Singarmau Institution for being handed over to the complainant. It is alleged that compliance of Section 48 of the Post Office Act has been done. No assurance was given to the complainant about the time of delivery of telegraphic money order. It is further stated that Rule 239 of Guide I of the Post Office does not provide for any liability.

Both the parties led evidence in support of their respective contentions before the learned District Forum who after hearing both the parties, directed for payment of the telegraphic money order alongwith its commission and Rs. 2,000/- as compensation. It was further directed that the amount is to be paid within 30 days, failing which the compensation shall be paid at the rate of Rs. 100/- per month.

3. AGGRIEVED against the order of the learned District Forum, the opposite parties have come in appeal and has challenged the correctness of the order passed by the Forum. We have heard the learned Counsel for the parties. A perusal of the facts of the case clearly goes to show that the money order was sent on 4.11.1991 through telegram but it was not delivered to the addressee. Even if 5.11.1991 was a holiday it is not possible to believe that the addressee would have been absent when she has specifically called for the money for going to Nagpur to take part in the Youth Festival. The appellant has not produced any evidence before the learned District Forum to prove this allegation. The original notings on the telegram should have been produced before the learned District Forum to show that the daughter of the complainant was not available for the money order to be delivered. In the absence of any such evidence, this contention of the appellants cannot be believed.

4. IT has been argued that there is no definite assurance given that the money order shall reach in time. Everybody knows that the telegraphic money order is meant for speedily sending the money from one place to another which cannot be done by a normal money order. Excess charges are realised for the telegraphic money order and this was paid by the complainant for sending the money order. When excess amount has been paid, it becomes the duty of the appellant to see that the money order, which is sent by telegram, reaches the destination without any loss of time. In the present case the money order did not reach the addressee. Therefore, there was gross deficiency on the part of the appellants and the learned District Forum was perfectly justified in passing the order and granting the compensation. No interference is required in the order of the learned District Forum, as far as merit is concerned. The learned District Forum has imposed Rs. 100/- per month as compensation. In our opinion this is not justified as compensation has already been granted. Therefore, this portion of the order is liable to be struck down. The appeal is liable to be allowed in part. ORDER The appeal is partly allowed and the damages granted at Rs. 100/- per month are struck down. The rest portion of the judgment and order are confirmed. There will be no order as to the costs. Let copy as per rules be made available to the parties. Appeal partly allowed.