

(2003) 12 NCDRC CK 0107

In the National Consumer Disputes Redressal Commission

Union of India

APPELLANT

Vs

Sunita Sharma

RESPONDENT

Date of Decision : 05-12-2003

Acts Referred:

Citation : 2004 2 CPJ 735

Hon'ble Judges : Palok Basu , Rachna J.

Final Decision : Ordered accordingly

Judgement

1. THE entire controversy in the instant appeals is dependent upon meaning to be put to the language used in Section 6 of the Post Office Act and then conclude as to which of the authorities of the Honble N.C.D.R.C. may be applicable to the facts at hand. Admittedly the complainant Miss Sunita Sharma has lost the chance of her life to be a Member of Higher Judicial Services, Rajasthan because of non-delivery of a letter to the Judicial Commission, Rajasthan within time. She was provisionally allowed to appear and subsequently she was disallowed by the said Commission. Her intimation card was cancelled and she was treated as a non-applicant.

2. IN the judgment pronounced by the Honble N.C.D.R.C. in the case of The Post Master v. G. Hanumantha Reddy available in the digest of National Commission and State Commission on Consumer Cases 1986-94 it is held that : We do not find any force in the contention advanced by the revision petitioner in Revision Petition No. 363 of 1993. IN our opinion Section 6 of the INdian Post Offices Act will not operate to preclude claims for compensation being made against the Postal Department for non-delivery of articles despatched by speed post/while accepting letters and articles for transmission by speed post the Postal Department has undertaken to deliver the articles within the specified period of time and in consideration thereof a substantial extra charge is levied by way of speed post charges which is sometimes as much as 20 times the normal postal rate. IN such a situation the bar under Section 6 will not apply and it is open to the party aggrieved by the non-delivery or delay in delivery of an article sent by

speed post to put forward a claim for compensation as against the Postal Department. The said case law dealt with a matter which was covered specifically by speed post despatch of the Postal Department. In the appeals at hand the despatch was also made through speed post.

The Honble N.C.D.R.C. in the case of Head Post Master, Post Office Railway Road, Kurukshetra, Haryana & Ors. v. Vijay Rattan Aggarwal has also dealt with two matters concerning speed post despatch and has held as under : Section 6 of the Post Office Act has been interpreted by this Commission in the case of Senior Post Master, G.P.O. Pune v. Akhil Bhartiya Grahak Panchayat & Anr., II (1995) CPJ 230 (NC) and in the Post Master, Imphal & Ors. v. Dr. Jamini Devi, Sagolband, I (2000) CPJ 28 (NC). Section 6 exempts Post Office from any liability for loss, misdelivery, delay or damage of any postal article in course of transmission by post, except to such extent as the liability may be undertaken by the Government in the express terms. An officer of the Post Office is similarly exempted from any liability unless he has caused loss, etc. fraudulently or by his wilful act or default. x. Scheme of Speed Post has been provided under Indian Post Office Rules of 1933 by inserting Rules 668. As noted above, these Rules are statutory. Complaints regarding any article booked under speed post (including demand for refund of fees in cases of non-delivery of articles within the stipulated time) are to be preferred within three months from the date of booking of the articles. Rule 66B was further amended by inserting two more sub-rules which provided that in case of delay of speed post article beyond the norms determined by the Department of Posts from time-to-time compensation will be provided which shall be equal to composite speed post charges paid. It also provided that in the event of loss of speed post article or loss of contents or damage to the contents, compensation shall be double the amount of composite fee speed post charges paid or Rs. 1,000/- whichever is less. It would be thus seen that maximum compensation statutrily fixed is Rs. 1,000/- which which can be granted when there is a poss of speed post article or loss of its contents or even damage to the contents. Norms to which reference has been made have been provided in the circular dated 22.1.1999.

3. IT may be stated here that in the case of Vijay Rattan Aggarwal (supra) reference to earlier decision in the case of Senior Post Master, G.P.O. Pune v. Akhil Bhartiya Grahak Panchayat & Anr., II (1995) CPJ 230 (NC) and Post Master, Imphal & Others v. Dr. Jamini Devi Sgolband, I (2000) CPJ 28 (NC) have been referred to but the decision in the case of Post Master v. G. Hanumantha Reddy the gist of which has been quoted above was not apparently cited before the Honble N.C.D.R.C. and reference is not given of that case in the judgment. The Apex Court already held that the matters where there may be a conflict of decision on certain points the later ruling will prevail. Under the circumstances it has to be held that if it is found that on the facts the complainant is entitled to compensation all that she can get is Rs. 1,000/- as laid down in the decision of the case of Vijay Rattan Aggarwal.

4. COMING to the facts of the case it may be pointed out that the admitted position is as under. Miss Sunita Sharma sent her application form for appearing as a candidate for the Higher Judicial Services Examination on 1.4.1999 through registered speed post vide receipt No. 0131 from the City Clock Tower Post Office, Meerut. The receipt was filed along with the complaint. The examination was scheduled to be held on 23rd and 24th May, 1999. The complainant approached the office of the Judicial Commission, Rajasthan at Ajmer on 20.5.1999 where she came to know that her Application Form had not reached that office till then. She applied for provisional permission which was granted and she appeared in the examination. Miss Sunita Sharma lodged a complaint with the Post Office on 11.6.1999. It was a written complaint. A reply dated 12.6.1999 from the Post Office came that they were enquiring into the matter. The complainant sent a reminder on 23.6.1999. Reply came through letter dated 24.6.1999 telling her that inquiry was going on. Similar was the fate with the second reminder dated 5.7.1999 which was replied on 7.7.1999 saying that inquiry was going on.

5. THE Rajasthan Judicial Commission vide its letter dated 12.7.1999 intimated the complainant that her examination was cancelled upon which Miss Sunita Sharma made representation. THE Commission allowed Miss Sunita Sharma to file evidence and time till 14.8.1999 was allowed vide letter of the Commission dated 2.8.1999 and cancellation of the examination was deferred subject to production of evidence.

6. AGAIN a letter was written to the Post Office but nothing came except a letter on as late as 27.1.2000 intimating that the letter is lost. Upon this Miss Sunita Sharma filed Complaint Case No. 307/2000 which has been decreed by the impugned order dated 7.10.2002 passed by District Consumer Forum, Meerut. While allowing the complaint the District Forum awarded Rs. 5,000/- as cost on travelling, etc., Rs. 15,000/- as damages for the default in not reaching the letter in time to the addressee and Rs. 2,000/- as cost of litigation. Thus an order of payment of Rs. 22,000/- in all was passed through the impugned judgment.

Appeal No. 2711/SC/2002 has been filed by Miss Sunita Sharma for enhancement of the compensation whereas Appeal No. 2690/SC/2002 has been preferred by Union of India through Postal Authorities concerned for setting aside the judgment dated 7.10.2002.

7. DR. Udai Veer Singh, Counsel for Union of India has been heard at extensive length. Mr. Deepankar Bhatta has also been heard in support of the complainants version while Miss Sunita Sharma herself has been heard. No choice is left to further try to express the language used by the Legislature in Section 6 of the Post Office Act and the rules framed thereunder relating to the speed post despatch. In the later decision of the Honble N.C.D.R.C. all these provisions and rules applicable to speed post despatch have been extensively examined.

8. MR. Deepankar Bhatta and Miss Sunita Sharma are right in contending that

the judgment of Honble N.C.D.R.C. in the case of Post Master v. G. Hanumantha Reddy has dealt with speed post matter and clearly held that the liability to pay compensation as claimed through the complaint in that case was perfectly valid and justified. The complainant has prayed for enhancement of the compensation. If that prayer was not accepted, MR. Bhatta, therefore, argues that in the instant appeal the judgment impugned be sustained. Dr. Udai Veer Singh on the other hand has placed reliance on the detailed discussions in the subsequent decision of the Honble N.C.D.R.C. He has also placed reliance on the two earlier decisions referred to in the portion of the judgment quoted above and argued that the liability cannot exceed double of the speed post charges or Rs. 1,000/- whichever is less. There is no doubt that the finding recorded in the case of Vijay Rattan Aggarwal ties down the Subordinate Consumer Courts to grant the payment more than the double charges of the speed post or Rs. 1,000/- whichever is less.

9. DR. Udai Veer Singh drew the attention to the letter dated 27.1.2000 which authorised payment of Rs. 100/- being double of Rs. 50/- which was charged for the speed post to Miss Sunita Sharma which offer was refused.

10. IN view of the aforesaid discussions Appeal No. 2690/2002 succeeds and is allowed in part. The appellant Union of INDia through Postal Department officials will pay Rs. 100/- within two months from today to complainant/respondent Miss Sunita Sharma as compensation. The amount deposited by the appellant Union of India through Postal Authorities which was paid to the complainant Miss Sunita Sharma shall be refunded within two months. Therefore, she will be entitled to deduct Rs. 100/- and refund only Rs. 4,900/- to comply with the directions in this appeal.

Appeal No. 2711/2002 of Miss Sunita Sharma praying for enhancement of compensation is dismissed. Parties will bear their own cost.

11. THE original judgment shall be kept in the records of Appeal No. 2690/2002 and certified copy whereof shall be kept in records of Appeal No. 2711/2002 which shall also be governed by this judgment and order. Ordered accordingly.