
(1999) 09 NCDRC CK 0052

In the National Consumer Disputes Redressal Commission

VISHWAS JULKA

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 09-09-1999

Acts Referred:

Citation : 1999 2 CPC 472 : 1999 3 CPJ 227 : 1999 3 CPR 253 : 2000 1 CLT 203

Hon'ble Judges : P.N.Nag , I.D.Bali , Krishana Tandon J.

Final Decision : Complaint dismissed

Judgement

1. THE brief relevant facts which give rise to the present complaint, are that the complainant who has distinguished academic record of passing diploma in Electrical Trade by securing 82.3% marks, applied for the post of Junior Engineer (Electrical) in response to the advertisement issued by the State Electricity Board of Punjab for recruitment of 200 posts of Junior Engineers and the last date of submission of the application form was 28.11.1997. THE complainant sent the application form by registered speed post on 24.11.1997 through Post Master, Post Office, Hamirpur and in normal course, according to the complainant, it should have reached in the office of Punjab State Electricity Board, Patiala by 28.11.1997 - the last date fixed for receipt of the application form. However, the complainant's application form reached in the office of Punjab State Electricity Board at Patiala on 1.12.1997, which is apparent from the letter dated 28.4.1999. According to the complainant, since he had distinguished academic record, he had bright chances of being selected against the post of Junior Engineer having regard to 200 number of vacancies which were to be filled-up by the Punjab State Electricity Board. Since the application form reached late on 1.12.1997 after the last date of receipt of application form i.e. 28.11.1997, the case of the complainant could not be considered and he has been deprived virtually of his appointment to the post of Junior Engineer and as such he has claimed compensation of Rs. 5,00,000/- alongwith costs of Rs. 4,000/-.

2. THE respondent-Postal Authorities (hereinafter to be referred to as the Postal Authorities) have admitted that the complainant sent a letter through registered

speed post on 24.11.1997 at Post Office, Hamirpur and the same was delivered in the office of Punjab State Electricity Board, Patiala on 1.12.1997. However, they have denied that the complainant has suffered damages of Rs. 5,00,000/-. Further they have claimed immunity from any liability whatsoever under Section 6 of the Indian Post Office Act, 1898 for late delivery of the postal article. Mr. Rajiv Jeevan, learned Counsel for the complainant vehemently submits that the application form sent by the complainant through speed post on 24.11.1997 has been delivered at a very belated stage i.e. 1.12.1997 after a period of 9 days and in normal course, it should have been delivered within a day or two.

No period has been prescribed for delivery of the letter sent under speed post, but in our opinion, the letter posted from Hamirpur by speed post on 24.11.1997 should have been delivered within a reasonable period and that the delivery of this letter in the office of the Punjab State Electricity Board at Patiala on 1.12.1997 after a period of 9 days certainly cannot be termed reasonable. The Postal Authorities, undoubtedly, are responsible for late delivery of the application form sent by speed post by the complainant with the result that his application could not be considered having been received after the last date of receipt of such applications and he has been deprived the chance of his being considered for the post of Junior Engineer to which he has applied for.

3. THE principal question that requires consideration however is whether Section 6 of the Indian Post Office Act, 1898 bars the claim of the complainant. Section 6 of the Act may be quoted as under : "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 in so far 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."

We are of the opinion that 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 these 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. This section is equally applicable to postal articles sent by speed post, as would be discussed hereinafter.

4. THIS view finds support from and stands fortified by the decision of the National Commission in Senior Post Master, G.P.O. v. Akhil Bharatiya Grahak Panchayat & Anr., II (1995) CPJ 230 (NC)=1995 (2) CPR 267. The National Commission has held that : "....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 these 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."

In another case *Union of India & Ors. v. Bimal Kishore Jha*, Revision Petition No. 562 of 1993 decided on 30.3.1994, the National Commission has again taken the same view and has held that no compensation can be claimed by a person who has despatched an article by post on the ground of delay in the delivery of the article in view of the categorical provision contained in Section 6 of the Indian Post Office Act, 1898 barring such claim. In view of the authoritative pronouncements of the National Commission, we have no hesitation to hold that Section 6 bars the claim of the complainant and the complaint made is liable to be dismissed.

5. MR. Rajiv Jeewan, Counsel for the complainant, however, submits that Section 6 gives immunity to the Postal Authorities only in respect of postal article including registered post, but not to the transmission of the postal article by speed post in which case the Postal Authorities charge higher postage.

6. SUCH contention has no force. Section 6 clearly provides that the Government shall not incur any liability by reason of loss, misdelivery or delay of or damage to, any postal article in course of transmission by post. The expression "postal article" has been defined under Section 2(b)(i) of the Indian Post Office Act, 1898 (hereinafter referred to as the Act) to include a letter, postcard, newspaper, book, pattern or sample packet, parcel and every article or thing transmissible by post. This inclusive definition of "postal article" includes every article or thing transmissible by post. The speed post, undoubtedly, comes within the expression of postal article, as it has been introduced as the High Speed mail service by the postal authorities transmissible by post. Further, according to Section 3 of the Act, a postal article shall be deemed to be in course of transmission by the post from the time of its being delivered to a post office to the time of its being delivered to the addressee or of its being returned to the sender or otherwise disposed of under Chapter-VII. A cumulative reading of the above definitions clearly show that the speed post is a postal article and was in the course of transmission by post from the time it was delivered by Post Office, Hamirpur to the time it was delivered to the addressee. Therefore, Section 6 clearly provides that the Government will 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. The speed post is, therefore, wholly covered under Section 6 of the Act.

In this context we may also notice that Section 21 of the Act empowers the Central Government to make rules as to the transmission of the articles by post. It appears the Central Government has made certain rules as to the transmission of article by post under Section 21 of the Act or issued certain instructions and these have been incorporated in a Hand Book on Speed Post - Services and Operations. In Chapter-I under the heading "Introduction", it has been provided that : "Speed Post is the High Speed mail service introduced under Section 21 of I.P.O. Act, 1898. It is meant to provide a high quality and super speed postal

service to the customers. It has to be fast economical and reliable, ensuring guaranteed delivery within prescribed delivery norms."

7. THE scope of the Speed Post has been given in Chapter-II, which provides that : "THE speed post service ensures speedy transmission and guaranteed time bound delivery. It provides special treatment for the articles. THE service is available within the country as well as with many other countries of the world. THEse are known as Domestic Speed Post Services and International Speed Post Services respectively."

These provisions read with other provisions of the Handbook aforementioned clearly show that speed post is also one of the modes of transmission of postal article by post and is clearly covered under Section 6 of the Act, which bars the complainant to claim compensation for late delivery of the application form sent by him through speed post.

8. THE learned Counsel for the respondent, however, has relied upon two judgments i.e., one of Haryana State Commission, Chandigarh in Head Post Master & Ors. v. Vijay Rattan Aggarwal, I (1997) CPJ 487=1997 (1) CPR 259, and the other given by Kerala State Commission in Sudha C.S. v. THE Post Master General, G.P.O. & Ors., 1998 (I) CPC 132. THEse judgments no doubt help the complainant, as according to these judgments. Section 6 of the Act will not bar the complainant to claim compensation, as the postal article was to be delivered under a special scheme called "speed post" and that the speed post is a special contract and special consideration is paid under the special contract. We are afraid we are unable to rely upon these judgments, as in our opinion, such judgments are not in conformity with the judgment of the National Commission and also for the reasons stated above. In the light of what is discussed above, there is no force in this complaint and is accordingly dismissed. There is no order as to costs. Complaint dismissed.