

**The Post Master General and Others Vs. M. Subramanian**

**The Post Master General and Others Vs. M. Subramanian**

**SooperKanoon Citation :** [sooperkanoon.com/1109357](http://sooperkanoon.com/1109357)

**Court :** Tamil Nadu State Consumer Disputes Redressal Commission SCDRC  
Chennai

**Decided On :** Jun-29-2011

**Judge :** Honourable Thiru Justice M. Thanikachalam President, Thiru a.K. Annamalai, M.a., B.L., M.Phil., Judicial Member & Tmt. Vasugi Ramanan, M.a., B.L., Member

**Appeal No. :** F.A.161/2010 [Against order in C.C.No.135/2009 on the file of the DCDRF,Coimbatore]

**Appellant :** The Post Master General and Others

**Respondent :** M. Subramanian

**Judgement :**

The respondent as complainant filed a complaint before the District Forum against the opposite parties praying for the direction to the opposite parties to pay a sum of Rs.1 lakh as compensation, in addition to recovery of Rs.37/- being the post charges. The District Forum allowed the complaint, against the said order, this appeal is preferred praying to set aside the order of the District Forum dt.28.10.2009 in C.C.135/2009.

This appeal coming before us for hearing finally on 20.06.2011, upon hearing the arguments of the either counsels and perused the documents, as well as the order of the District Forum, this Commission made the following order:

## **M. THANIKACHALAM J, PRESIDENT**

1. The opposite parties are the appellants.

2. The respondent/complainant, who claims to be a Tamil Reformer, after obtaining particulars, to whom a complaint should be given for reforming tamil letters, sent an application to the Tamil Nadu Information Commissioner, who requested him to come for hearing on 3.12.2008 at 2 p.m. The complainant due to illhealth, unable to attend the hearing on 3.12.2008, informed the same through Speed Post on 01.12.2008 by 3.37 p.m. through third opposite party under the hope, that speed post will reach the Tamil Nadu Information Commission on 2.12.2008, enabling them to postpone the case, for which, a total a sum of Rs.37/- was paid.

3. The opposite parties have not served the speed post as expected and as assured, resulting dismissal of the petition filed by the complainant, before the Tamil Nadu Information Commissioner for non-appearance on 3.12.2008, for which, the negligent act and deficiency committed by the opposite parties are the cause, which gave mental agony and monetary loss etc., for which, the complainant is entitled to a sum of Rs.1 lakh as compensation, in addition to, recovery of a sum of Rs.37/- paid, as postal charges. Hence, the complaint.

4. The opposite parties admitting the speed post articles sent by the complainant through the third opposite party, as well as the payment of Rs.37/-, resisted the case, inter alia contending that the speed post article was correctly delivered to the addressee on 4.12.2008, that the delay in delivery is protected under Section 6 of the Indian Post Offices Act and that in any case regarding domestic speed post article, the complainant is entitled to compensation as provided under the rules, namely equal to composite speed post charges and nothing more, thereby, praying for the dismissal of the complaint.

5. The District Forum despite the legal position raised by the opposite parties, rejecting the same, has come to the conclusion, as if, the delayed delivery should be construed as deficiency in service, causing mental agony, entitling the complainant to claim not only the amount paid, but also compensation for mental

agony. In this view, a direction came to be issued on 28.10.2009, directing the opposite parties to repay the sum of Rs.37/-, in addition to, compensation of Rs.5,000/- along with costs of Rs.1,000/-, which is impugned before us on various grounds.

6. In this case, we are not very much concerned about the purpose, for which, the complainant had sent a petition to the Tamil Nadu Information Commissioner, and we are constrained to see, whether the speed post entrusted was delivered in time without delay, if not, what is the consequence.

7. It is an admitted fact that the complainant had sent a speed post article No.ET518311979 to the Chief Information Commissioner on 01.12.2008 by speed post through the third opposite party, paying a total sum of Rs.37/-, including POD. In the ordinary course, the speed post article should have reached on 2.12.2008, since it was entrusted to the third opposite party on 1.12.2008 at 3.37 p.m. But admittedly, the opposite parties have delivered the speed post article to the addressee on 4.12.2008, certainly belatedly. The complainant had sent the letter seeking adjournment of the case, which was pending before the Tamil Nadu Information Commission. Because of the non-representation and no communication, the case was treated as abated or dismissed as disclosed by Ex.A16 on 3.12.2008. Thus, it is clear, by non-delivery of the speed post article in time or delayed delivery, the complainant was put to some hardship, since he was unable to get the information desired by appealing to the Tamil Nadu Information Commission. Therefore, we find no difficulty in concluding that there was deficiency in service in the sense delayed delivery.

8. The very purpose of creating speed post and assigning number is to deliver the speed post on the next day, on the basis of the priority, tracking the same also. If the opposite parties have followed the procedure, certainly the article entrusted on 1.12.2008 should have reached the addressee on 2.12.2008 or atleast in the early morning on 3.12.2008. If it had reached, the case could not have been dismissed, by the Tamil Nadu Information Commission. Admittedly only on 4.12.2008, the speed post article was delivered, therefore, the grievance of the complainant is genuine, cannot be faulted.

9. The learned counsel for the appellants would contend that in terms of Section 6 of the Indian Post Office Act 1898, belated delivery is protected and they are exempted from the liability, which cannot be denied, which is held so by the National Commission as well as this Commission, placing reliance upon the latest decision reported **2011 CTJ 27 CP (NCDRC)**. If the Post Office should be taken outside the purview of Section 6, then it is for the complainant to prove, preceded by plea, that the delay was caused fraudulently or by willful act or default, for which, we have no plea, followed by proof also. Under Section 6, exemption is given to the Authority concerned, from liability for delayed delivery also, therefore, we cannot order compensation, though there was deficiency.

10. In this case, we feel, in view of the decision rendered by the National Commission, Section 6 alone will not come into operation, and rules framed for speed post delivery should be made applicable. As seen from the Gazette Notification, it is notified **In case of delay in delivery 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 charges paid**. Applying the above principle if at all the complainant is entitled to the amount equal to composite speed post charge paid and nothing more and this amount should be as per the case of the complainant only Rs.37/-. In the case of loss alone, the compensation shall be doubled the amount of composite speed post charges paid or Rs.1,000/-, whichever is less, which is not available in this case, since it is a question of delayed delivery alone, not loss of article. The District Forum without going through the relevant provision, has acted against the law and therefore, we are constrained to upset the said finding and error should be rectified, for which, appeal deserves to be allowed in part.

11. Appeal is allowed, order of the District Forum is set aside and the complaint is allowed in part, directing the opposite parties to pay only a sum of Rs.37/- [being the composite speed post charges paid] with costs of Rs.1,000/-. No order as to costs in this appeal.