

Anil Kumar Vs. D.T.D.C. Courier

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Court : Bihar State Consumer Disputes Redressal Commission SCDRC Patna

Decided On : Sep-25-2006

Judge : D.P.S. Choudhary, President, the Honourable Mr. Anil Kumar Verma, Member & the Honourable Dr. (Mrs.) G. Venkataraman, Member

Appeal No. : Appeal No. 512 of 2005

Appellant : Anil Kumar

Respondent : D.T.D.C. Courier

Judgement :

Anil Kumar Verma, Member:

1. This appeal is directed against the order dated 1.7.2005 passed by District Forum, Patna in complaint case No. 170 of 2003 whereby and whereunder the learned District Forum dismissed the complaint. Being aggrieved the complainant has come in appeal.

2. The case of the complainant in brief is that he was residing temporarily at Delhi for preparation of Engineering Examinations and for Bihar Combined Entries Competitive Examination 2002 he obtained a form which required attestation by Head of Institute last attended and, therefore, the complainant delivered a letter to opposite party Courier Agency on 13.3.2002 addressed to his brother at Patna and the Courier Agency assured that letter (form) will be delivered by 15th March, 2002; that the last date of receipt of form was 28th March; that complainant was

anxious and made inquiries on 16.3.2002 and other dates but the opposite party went on saying that it has sent the consignment on the same date and advised to contact Mahendru Branch of the opposite party; that the Mahendru Branch of the O.P. delivered the aforesaid letter to his brother on 20.3.2002 which was last date and though he dropped the form at GPO, Patna by speed post for the office of BCBCE, Patna but it could not be delivered on the same date and the application form of the complainant was rejected due to late arrival. The complainant claimed compensation of Rs. 8,00,000 (eight lakh) with 18% interest for deficiency in service of the opposite party.

3. The opposite party DTDC Courier and Cargo Ltd., filed written statement who claimed that as consignment was booked from Katwarya Sarai, Delhi Branch of opposite party, the case at Patna was not maintainable; that the application of complainant for appearing in Rajasthan Pre-engineering Test 2001 was rejected by the Co-ordinator of the University of Rajasthan as they do not recognise the examination conducted by Bihar Intermediate Counsel, Patna; that even if there was any deficiency in service for the sake of argument in the service of the DTDC per provision of Clause 5 of the terms and conditions of carriage, the liability of the O.P. was limited to Rs. 100 only.

4. The ground taken in this appeal is that the learned Forum has given its finding based on letter dated 9.4.2001 from the co-ordinator of RPET-2001 but overlooked that complainant has applied for taking part in examination of 2002 to be conducted by Bihar Combined Competitive Examination and not RPET; that the reference of examination of Rajasthan Engineering was just given in the complaint by way of reference and has got no concern with the deficiency in service as stated above in the complaint by O.P.

5. From the photocopy of receipt filed with memo of appeal and from the pleadings of parties there is no denial that the letter was booked with O.Ps. Katwarya Sarai Office on 13.3.2002 which was delivered to the addressee on 20.3.2002 which was a long delay and did not fulfil the promise of O.P. that it will be delivered by 15th March, 2002. 20.3.2002 was the last date for receipt of application form to the office of BCECE. The letter of rejection dated 9.4.2001 by Co-ordinator RPET

2001 has got no concern with the present case. Hence, deficiency in service by O.Ps. is well proved. The claim of O.P. that Patna District Forum has got no jurisdiction to entertain the case has got no leg to stand because the O.P. has got a Branch at Patna and letter was to be delivered at Patna which was delivered after seven days. The claim of O.P. that there was a printed term and condition that liability, if any, will be only to the tune of Rs. 100 also has got no leg to stand because complainant was debarred from appearing in Engineering Examination due to very late delivery of the letter. The complainant opted courier service for prompt delivery of the letter. However, the claim of rupees eight lakh as compensation is without any basis. In our view Rs. 10,000 (ten thousand) only as compensation will be an adequate compensation for the loss and mental anxiety and agony to the complainant. Hence the appeal is allowed and we direct the opposite party (respondent) to pay a compensation of Rs. 10,000 (ten thousand) only within six weeks from today and interest @ 8% p.a. compounded half-yearly will be payable after expiry of two months from today till date of payment. Litigation cost of Rs. 1,500 is also allowed to the appellant which should be paid as above.

Appeal allowed.

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