

Post Master, General Post Office and Others Vs. Mohd. Naim

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Court : Delhi State Consumer Disputes Redressal Commission SCDRC New Delhi

Decided On : May-30-2003

Judge : Lokeshwar Prasad, President & Ms. Rumnita Mittal, Member

Appeal No. : Appeal No. A-519 of 2003

Appellant : Post Master, General Post Office and Others

Respondent : Mohd. Naim

Judgement :

Lokeshwar Prasad, President:

1. The present appeal, filed by the appellant, under Section 15 of the Consumer Protection Act, 1986 (hereinafter referred to as the Act), is directed against order dated 8.10.2002, passed by District Forum (Central), ISBT, Kashmere Gate, Delhi in Complaint Case No. 921/2001 entitled - Shri Mohd. Naim v. Post Master and Ors.

2. The facts, relevant for the disposal of the present appeal, briefly stated, are that the respondent Shri Mohd. Naim had filed a complaint under Section 12 of the Act before District Forum averring therein that on 15.4.2000 he had remitted a sum of Rs. 2,000/- by money order through Post Office, Paharganj, New Delhi and was issued a receipt, bearing No. 1071 dated 15.4.2000 by the postal authorities. The money order, sent by the respondent, was addressed to his wife Smt. Nasreen

Begum at village Chimra Munger, Post Office Munger Chimba, District Munger (Bihar). As that money order, sent by respondent, was not received by the payee, he (respondent) made several visits to Post Office Paharganj, New Delhi and also sent registered notices but there was no response from the side of the appellants. It was stated in the complaint, filed by the respondent, that the above remittance was made by him by money order for the treatment of his ailing father and as the amount was not made available, treatment to his ailing father could not be given and the father of the respondent expired. Alleging deficiency in service, it was prayed by the respondent, in the complaint filed by him, that the appellants be directed to pay/refund the amount of Rs. 2,000/- sent by him by money order together with Rs. 30,000/- as compensation for mental agony and pain and another sum of Rs. 5,000/- on account of litigation expenses.

3. The claim of the respondent in the District Forum was resisted by the appellants and in the reply/written version/written statement filed on behalf of the appellants certain preliminary objections were taken to the effect that the respondent had not come to the Forum with clean hands; had concealed material facts and that the complaint, in view of the provisions contained in Section 48 of the Indian Post Office Act, 1898, was not maintainable. It was further stated that as the payee refused to receive the payment of the money order, the complaint, filed by the respondent, even otherwise was not maintainable and was liable to be dismissed.

4. On merits, while admitting the fact of remitting a sum of Rs. 2,000/- by money order to Smt. Nasreen Begum by the respondent, it was stated that the respondent was not entitled to any relief. However, the appellants had expressed their willingness to return the amount of Rs. 2,000/- to the respondent.

5. The learned District Forum, vide impugned order, has held the appellants guilty of deficiency in service and on the basis of the above finding has directed the appellants to pay a sum of Rs. 2,000/- to the respondent alongwith interest @ 9% p.a. from 15.4.2000 till payment. The learned District Forum has awarded a sum of Rs. 3,000/- as compensation and another sum of Rs. 1,000/- as cost of litigation.

Feeling aggrieved, the appellants have preferred the present appeal under Section 15 of the Act.

6. We have heard the learned Counsel for the appellants at length on the question of admission of the present appeal and have also carefully gone through the documents/material on record. In terms of the provisions contained in Section 15 of the Act, a person, aggrieved by an order, made by the District Forum, can prefer an appeal against such order to the State Commission within a period of 30 days from the date of the order. However, proviso to Section 15 of the Act provides that the State Commission may entertain an appeal even after the expiry of the above said period of 30 days, if it is satisfied that there was sufficient cause for not filing the same within the above said period. The words sufficient cause, occurring in proviso to Section 15 of the Act, are of utmost significance. As per settled law, culled out from various judicial decisions, the above expression sufficient cause, though deserves to receive a liberal interpretation, yet, a just and equitable balance has to be maintained between the right secured by the respondent as a result of expiry of the prescribed period of limitation and the injustice of depriving the appellant of adjudication of his grievances on the merits of his appeal for causes beyond his reasonable control, which means the cause is bona fide and beyond the control of the appellant. Though, no hard and fast line can be drawn as to what affords sufficient cause in a given case, yet, again, as per settled law, any cause which prevents a person from approaching the Court within time is sufficient cause. In doing so, it is the test of a reasonable man in normal circumstances which has to be applied.

7. Admittedly, the present appeal has not been filed by the appellants within the prescribed period of 30 days because the order being impugned in the present proceedings was passed by the learned District Forum on 8.10.2002 and the present appeal has been filed by the appellants on 17.5.2003. Therefore, the question requiring consideration at the very threshold is as to whether the appellants have shown sufficient cause for not filing the appeal in time within the meaning of proviso to Section 15 of the Act.

8. The appellants, along with the appeal have also filed an application, seeking condonation of delay in filing the present appeal. The reasons for not filing the present appeal in time have been stated in Paras 3, 4, 5 and 6 of the above said application which read as under :

3. That after receiving the impugned order, the case was referred to Ministry of Law in December, 2002 for necessary action and the instructions for filing the appeal against the impugned order which was received vide note dated 22.1.2003.

4. That after receiving the instructions the matter was referred to Litigation Section of Ministry of Law, Justice and Company Affairs for appointment of Govt. Counsel for filing the necessary appeal.

5. That the Govt. Counsel was appointed vide Brief Transmission Form dated The concerned officer of the appellants contacted the Govt. Counsel on 10.3.2003 to brief him about the case.

6. That the appellants are Govt. bodies and the decision to file the appeal had to be taken by the Appropriate Authority through proper channel and the appellants of their own could not take the decision to file the appeal. Hence the delay.

9. On a perusal of the contents of the above paras, it is apparent that not a word has been stated either in the above said application or in the memorandum and grounds of appeal or in any other document on record, as to on which date, the appellant had received the copy of the order being impugned in the present proceedings. Only a bald statement has been made that after receiving the impugned order, the matter was referred to Law Ministry in December, 2002. From the contents of Para 3, it is further apparent that instructions for filing the present appeal were received from the Ministry of Law by the appellants vide note dated 22.1.2003. Even after receipt of the above said instructions in the month of January, 2003, the present appeal has been filed by the appellants on 17.5.2003. Their Lordships of the Honble Supreme Court in case P.K. Ramachandaran v. State of Kerala and Anr., reported as AIR 1998 SC 2276, while allowing the appeal filed by the appellant, Shri P.K. Ramachandaran and setting aside the order passed by the Honble High Court of Kerala, has held in clear-cut terms that the law of limitation may harshly affect a particular party, but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds.

10. As per settled law, the appellants were under obligation to explain each days delay. No explanation whatsoever has been given by the appellants for delay after 10.3.2003. On a perusal of the contents of the above paras, it is further apparent that the application has been prepared on behalf of the appellants in a most casual manner. The concerned functionary of the appellants, before signing application, has not even cared to fill in the blanks in Para 5. Delay in filing the appeal cannot be condoned as a matter of generosity. Proof of sufficient cause is a condition precedent for the exercise of such discretion by the Appellate Authority. In our above views, we stand fortified by a decision of the Honble National Commission in case Vice Chairman, Delhi Development Authority v. O.P. Gauba, reported as III (1995) CPJ 18 (NC)=1986-96 Consumer 2731 (NS).

11. In the presence of the above facts and the position explained above, in our opinion, whatever liberal interpretation might be put on the words sufficient cause it would be impossible for us to hold that there was no negligence on the part of the appellants. In our opinion, as a matter of fact the appellants have miserably failed to show sufficient cause for condoning the delay in filing the present appeal and, therefore, the application seeking condonation of delay in filing the present appeal deserves to be rejected. Accordingly, the same, is hereby rejected.

12. The present appeal, filed by the appellants, besides being barred by limitation is also devoid of substance on merits because on the basis of material on record, it is not in dispute that the respondent had remitted a sum of Rs. 2,000/- by money order on 15.4.2000 from Post Office, Paharganj, New Delhi. That money order, sent by the respondent, was addressed to Smt. Nasreen Begum, the wife of the respondent of village Chimra Munger, Post Office Munger Chimba, District Munger (Bihar). On the basis of material on record, delay in making payment to the payee of the said money order is not in dispute. The appellants in the present appeal are not individuals. They are, as a matter of fact, a State within the meaning of Article 12 of the Constitution and the concept of a State is that of a Welfare State, the primary concern of which is the well being of the citizens and not to harass them. The plight of a poor person, who had remitted a paltry sum of his hard earned money, amounting to Rs. 2,000/- only to a remote village in Bihar for the treatment of his ailing father, can be well imagined. The amount, sent by money order was

not delivered to the payee in time and due to the non-receipt of the money sent by money order, treatment to the ailing father of the respondent could not be given and the father of the respondent expired without any proper treatment for want of funds. The learned Counsel for the appellants, during the course of arguments, vehemently contended that in view of the provisions contained in Section 48 of the Indian Post Office Act, 1898, the appellants cannot be saddled with any liability for the alleged lapse on their part. In our opinion, in the given facts, the above contention advanced by the learned Counsel for the appellants, is also devoid of substance because the Indian Post Office Act, 1898 was enacted more than a century ago in the year, 1898, when the then Government of the day acquired total immunity for any action of the Postal Department without least caring for the interest of common consumers, who at the relevant time were mere slaves under foreign rule. The above provision, made in the year 1898 in the Indian Post Office Act, 1898, is totally antiquated and as a matter of fact completely out of tune with the spirit of a democratic Government in a parliamentary system where all the actions of the Government functionaries are subject to scrutiny and all such functionaries are accountable for any lapse or misdeed on their part even in the discharge of their official duties. In our above views, we stand fortified by a decision of the Honble National Commission in case Superintendent of Post Offices and Ors. v. Upvokta Surakshya Parishad, III (1996) CPJ 105 (NC)=1986-99 Consumer 4508 (NS), where, while interpreting the aims and objects of Section 6 of the Indian Post Office Act, 1898, similar observations have been made by the Honble National Commission.

13. In view of the position explained above, on merits also, the order of the District Forum, which is a well reasoned order, suffers from no infirmity so as to call for any interference by this Commission in exercise of its appellate powers.

14. From the narration of the above facts, it is apparent that the present appeal, filed by the appellants besides being barred by limitation is also devoid of substance on merits. Therefore, the same deserves to be dismissed. Accordingly, the same is dismissed in limine with no order as to costs.

Appeal dismissed.

