

Saruchi Dhiman Vs. Postmaster General Post Office and Others

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Court : Himachal Pradesh State Consumer Disputes Redressal Commission
SCDRC Shimla

Decided On : May-09-2014

Judge : (Retd.) Surjit Singh, President & the Honourable Mrs. Prem Chauhan, Member

Appeal No. : First Appeal No. 38 of 2014

Appellant : Saruchi Dhiman

Respondent : Postmaster General Post Office and Others

Judgement :

Justice (Retd.) Surjit Singh, President (Oral)

1. Appellant has preferred this appeal against the order dated 13.12.2013, of learned District Consumer Disputes Redressal Forum, Shimla, whereby her complaint, under Section 12 of the Consumer Protection Act, 1986, which she filed against the respondents, has been dismissed, with the finding that in view of the provision of Section 6 of the Indian Post Offices Act, 1898, respondents are not liable to pay any damages for the loss of the papers, which the appellant sent to respondents No.3 and 4 for taking her examination for admission to MBBS course.

2. Appellant wanted to take entrance examination for admission to MBBS course conducted by respondents No.3 and 4. She sent her application by speed post on 22.01.2010, from branch Post office, Khalini. Last date of receipt of the application

was 05.02.2010. Appellant did not get any acknowledgement nor did she get the roll number for appearing in the examination, right upto the date of examination. She then made enquires with respondent No.3. She was informed that her application for taking examination had not been received. She then approached the Sub Post Office, Khalini, who did not pay any heed to her query. Therefore, she filed a complaint, under Section 12 of the Consumer Protection Act, 1986, seeking a direction to respondents No.1 and 2 to pay Rs.45,000/- as compensation on account of coaching fee paid by her, Rs.1,000/- on account of submission of admission fee, and Rs.50,000/- as compensation for harassment and loss of one academic year, and Rs.4,000/- as litigation expenses.

3. Respondents No.1 and 2 contested the complaint and pleaded that they were not liable to pay any compensation for mis-delivery or delay or loss of postal articles, in view of Section 6 of the Indian Post Offices Act, 1898. Learned District Forum, vide impugned order, has dismissed the complaint upholding the respondents plea relying upon two precedents of the Honble National Consumer Disputes Redressal Commission in Union of India vs. Achintam Kilikdar, Revision Petition No.1263 of 2005, decided on 26.08.2009 and S. Parameshwar vs. Chief Post Master General, Revision Petition No.4603 of 2010, decided on 10th October, 2012.

4. We have heard learned counsel for the parties and gone through the record.

5. This Commission, in Union of India and Ors. vs. Tule Ram, First Appeal No.412 of 2013, decided on 25.04.2014, relying upon a latest precedent of the Honble National Consumer Disputes Redressal Commission in Revision Petition No.4567 of 2012, titled Senior Superintendent of Post Offices vs. Dharamveer Harijan, decided on 11.09.2013, has held that Section 6 of the Indian Post Offices Act, 1898, protects the postal department and its functionaries against claim for damages for loss or delay in delivery of postal articles, unless there is allegation that the alleged act of deficiency was committed fraudulently or by some wilful act or default, on the part of any particular functionary of the postal department.

6. However, relying upon a Circular No.43-4/87-BDD, dated 22nd January, 1999, which provides for the refund of the postal charges and payment of Rs.1,000/-, we

hold that the appellant is entitled to the refund of the postal charges, as also a sum of Rs.1,000/-, in terms of the aforesaid circular dated 22.01.1999.

7. Accordingly, appeal is partly accepted and respondents No.1 and 2 are directed to refund the amount of money charged from the appellant and also to pay her Rs.1,000/-, within one month from today, failing which interest at the rate of 9% per annum, shall be payable on the sum total of the aforesaid two amounts of money.

8. Disposed of.

9. A copy of this order be sent to each of the parties, free of cost, as per Rules.

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