

**STATE CONSUMER DISPUTE REDRESSAL COMMISSION  
BIHAR, PATNA**

**Appeal No. 262 of 2019**

1. Superintendent of post offices, Rohtas Dn, Sasaram.
2. Postmaster, Dehri On sone, District Rohtas

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**Appellants**

**Versus**

Premnath Singh S/o- Late Ram Kishore Parjapati Resident of vill-  
Chera Kachua, P.O- Rampuri, PS- Chunnar, District- Mirjapur (Uttar  
Pradesh) at present Address Kusth Niwaran Kendra Rudrapura, P.o-  
Jamuhar P.S- Dehri District- Rohtas.

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**Respondent**

For the Appellant : Sudhir Kumar Tiwari Advocate  
For the respondent : Ashok Kumar, Advocate

**Before,**

**Hon'ble Mr. Justice Sanjay Kumar, President  
Mr. Ram Prawesh Das, Member**

**Order**

**Per: Hon'ble Mr. Justice Sanjay Kumar, President  
Dated 17.11.2023**

Present appeal has been filed on behalf of the  
Appellants/opposite parties for setting aside the order dated  
20.06.2019 passed by District Consumer Forum, Rohtas passed in  
complaint case no. 01 of 2013 whereby and where under appellants  
have been directed to pay Rs. 50,000/- as compensation to the  
complainant and further to pay Rs. 10,000/- as cost of litigation.

Briefly stated the facts of the case is that son of complainant had send an application for his admission in M.sc (Biotechnology) in JNU Delhi for the session year 2012-13 along with demand draft of Rs. 5,000/-. Complainant sent his application by speed post from branch post office at SBI Branch Dehri On Sone on 22.06.2012 and which was suppose to reach its destination latest by 27.06.2012 but due to negligence of postal department the delivery of speed post was delayed by 19 days as such son of complainant could not be admitted in said university.

Complainant wanted to know the reason for said delay but opposite parties did not furnish any reason for delay in delivery of speed post. Due to negligence and recklessness of opposite parties his son could not take admission in the university. Complainant send a legal notice on 28.11.2012 but no reply was received from the opposite parties.

Complainant thereafter filed a consumer complaint case in the District Consumer Forum, Rohtas for grant of Rs. 3,00,000/- as compensation for delay in delivery of speed post as a result of which his son could not be admitted in the university which amounts to deficiency in service by the postal department as well as compensation for physical and mental harassmt and cost of litigation. Notices were issued to opposite parties and they appeared and filed their written statement.

In their written statement opposite parties have stated that that section 6 of the Indian Post Office Act 1898 provides immunity to the postal Department from any liability by reason of loss, delay or damage or mis-delivery to any postal article in course of transmission by post accept in cases where any express terms the liability is under taken by the Central Government.

After hearing the parties and considering the materials available on record the District Consumer Forum held that due to non delivery of speed post within time as under taken by the postal department son of the complainant could not take admission in a prestigious university JNU, Delhi due to deficiency in service of the postal department and accordingly granted compensation of Rs. 50,000/- to the complainant as well as Rs. 10,000/- as cost of litigation aggrieved by which present appeal has been filed on behalf of postal department before the State Commission.

It is submitted on behalf of the counsel for the appellant that postal department is not liable to pay any compensation for reason of loss, mis-delivery or delay in delivery of any postal article in course of transmission by post as per provision contained in rule 6 of Indian Post Office Act 1898 and as per Speed Post rules complainant is entitled for double of the speed post charge or Rs. 1,000/- whichever is less in case of non delivery or delay in delivery of article under the post office rules. Section 6 of Indian Post Office Act 1898 reads as follows:-

**Exemption from liability for loss mis-delivery delay or damage.**

The Central Government shall not incur any liability by reasons of the loss mis-delivery 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 under taken by the Central Government as hereinafter provided and no office of the post Office shall incur any liability by reason of any such loss, mis-delivery, delay or damage, unless he has caused the same fraudulently or by his will full act or default.

Pursuant to section 21 of the Indian Post Act 1898 Indian Post office rules 1933 were framed and said rules were amended

from time to time and rule 66B was introduced with effect from 01.08.1986 and was further amended by notification no. GSR40(E) dated 21.01.1999 and following condition after condition no. 5 was inserted

“In case of any delay 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 charge paid. In the event of loss of domestic speed post article or loss of its contents or damage to the contents, compensation shall be double the amount of composite speed post charges paid or Rs. 1,000 whichever is less.”

No any other ground has been argued on behalf of counsel for the appellant. On other hand counsel for the respondent has supported the judgment and order passed by District Consumer Forum and submits that order is well discussed and well reasoned and does not require any interference in appeal.

Heard learned counsels for parties and considered their submissions.

The issue raised in this appeal by the postal department stands decided by the National Commission in case of Post Office Hisar Vs Dilwan Singh (2018 (4) CPJ (NC) 425) Paragraph No. 18 &19 of which reads as follows:-

*18. So far as the question of compensation for delay in delivery of the Speed Post is concerned, once the complainant has been found to be a consumer and his eligibility to avail the relief under Consumer Protection Act is established, the provision of Consumer Protection Act, 1986 shall be fully applicable in the present case. Section 14(d) of Consumer*

Protection Act, 1986 reads as under: " 14. Finding of the District Forum-

(d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party:"

19. From the above provision, it is clear that the District Forum is competent to award compensation keeping in view loss and injury sustained by the complainant due to negligence of opposite party. This Commission in *Sr. Supdt. of Post Offices Nit, Faridabad & Anr. v. Mahabir Prasad & Anr.*, RP No. 2186 of 2013, decided on 4.7.2013, has held the following: "We do not find force in the contention raised by the learned Counsel for the appellant-opposite parties because from the act and conduct of the opposite parties it is fully established that they were deficient and negligent in non-delivering of the postal article to the complainant. If nobody was available to receive the postal article the opposite parties were bound to send the same to its sender but they failed to perform their duty. In our view the act of the appellant-opposite parties for not delivering the speed post article at its proper destination, is wilful act or default on the part of the officials of the appellant-opposite parties. It has to be kept in mind that in view of Section 106 of the Indian Evidence Act, 1872 the burden of proving deliberation about the delivery of the postal article was upon the opposite parties because after handing over the speed post envelope to the opposite party No. 1 by the opposite party No. 2, the opposite parties are the custodian of the same and by conducting an inquiry about the

loss/missing of the postal article, the opposite parties could have submit their explanation but they failed to do so. It is evident on record that the appellant-opposite parties are deficient for the loss of speed post envelope which was containing cheque of Rs. 51,030. Merely by stating that the liability of the opposite parties is limited to pay compensation as admissible under the rules for loss of article or Rs. 1,000 whichever is less, is not genuine excuse as the opposite parties have tried to absolve themselves from their liability by taking shelter of Section 6 of the Indian Post Office Act, 1989 and the provisions of the Indian Post Office Rules, 1933 and Rule 66B of the Post Office Act and as such the deficiency of service of the opposite parties in the instant case is not to be over sighted. In view of the above facts, no jurisdictional or legal error has been shown to us to call for interference in the exercise of powers under Section 21(b) of Act. Since, two Fora below have given detailed and reasoned orders which does not call for any interference nor they suffer from any infirmity or erroneous exercise of jurisdiction or material irregularity. Therefore, present petition is hereby, dismissed with cost of Rs. 10,000 (Rupees ten thousand only)."

Similar view has been expressed by National Commission in RP No. 2979 of 2017 Dr. Ravi Agarwal Vs Speed Post Rajasthan University and anr. and in RP NO. 3238 of 2017 Speed post Rajasthan University and anr. Vs Ravi Agarwal decided on 13.02.2019.

**17. In nut shell it can be said that the person who has sent the speed post is a consumer under the Consumer Protection Act, 1986 as he has paid the speed post charges for getting the services of this**

*speed post delivery. Section 3 of the consumer Protection Act provides that the remedies under the Consumer Protection Act, 1986 is an additional remedies available to a consumer. As seen above, in case of speed post, Section 6 of the Indian Post Office Act 1898 does not seem to be applicable, the remedy under Consumer Protection Act, 1986 is not in derogation of any other law for the time being in force. Hence as observed by this commission in post office Hisar Vs Dilwan Singh the District Forum and State Commission are empowered to award compensation to the complainant.*

In said view of the matter this commission does not find any error or infirmity in the order passed by the District Consumer Commission, Sasaram requiring any interference by this court in appeal.

Appeal is devoid of any merit and is accordingly dismissed.

A copy of this order be supplied to both the parties free of cost as mandated by the Consumer Protection Act.

Office is directed to upload this order on the website of the Commission.

Let the file be consigned in the record room along with copy of this order.