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**(1992) 09 NCDRC CK 0054**

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**

**Case No:** None

Union of India

APPELLANT

Vs

SUNIL KR.GOYAL

RESPONDENT

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**Date of Decision:** Sept. 4, 1992

**Citation:** 1993 1 CPJ 98 : 1993 1 CPR 19

**Hon'ble Judges:** R.N.Mittal , B.L.Anand J.

**Final Decision:** Appeal allowed

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**Judgement**

1. THIS appeal has been filed against the order dated 31.1.92 passed by the learned District Forum, Delhi. The admitted facts are that the respondent Sh. Sunil Kumar Goyal had despatched one registered letter to the Secretary, Agrotech India Ltd., Chandigarh on 25.9.90 vide postal receipt No. 4658 (wrongly mentioned as 25.5.90 in the impugned orders). The said letter was handed over at the Eastern Court Post Office. The said registered letter, however, never reached the addressee. The respondent, Mr. Goyal lodged a written complaint for 1st time on 27.5.91 to the appellant, which was replied on 14.6.91. He again wrote another letter on 30.7.91 as reminder. The respondent was finally intimated by the appellants vide their letter dated 3.9.91 that the said registered envelop was burnt on 26.9.90 on account of the anti-reservation riot by the mob. The respondent, who was the complainant before the District Forum, had alleged that the said registered letter was containing some shares for transfer in his name and had claimed a compensation of Rs. 18.250/- alongwith interest @24% p.a. on the said amount for non-delivery of the said registered letter.

2. THE District Forum, vide its impugned order awarded a sum of Rs. 5,000/- as compensation and Rs. 1250/- as conveyance and postal charges incurred by the

respondent.

We have heard the learned Counsel for the parties and gone through the records. It was argued on behalf of the learned Counsel for the appellant that the learned District Forum has completely ignored the facts on record and the provisions made under Section 6 of the Indian Post Office Act and also Rule 163 made thereunder. It has also been contended by the learned Counsel for the appellant that as per admitted facts on record the complainant had lodged his 1st complaint regarding non-delivery of the letter only on 27.5.1991 which comes to more than 8 months from the date of posting of the letter on 25.9.90 which was replied by the appellants on 14.6.91. It was urged by the appellants that the 1st letter by the claimant was beyond a period of three months as prescribed under Rule 163 under the Indian Post Office Act. Thus claim/complaint made by the respondents was beyond the limitation of three months. Rule 163 made under the Postal Act reads as under:-

"Rule 163. Compensation (I) The Head of the Circle may grant to the sender, or at his request to the addressee solely as an act of grace, and not in consequence of any legal liability compensation upto a limit of Rs. 50 for the loss of any inland letter packet or parcel, or its contents or for any damage caused to it in course of transmission by post subject to the following conditions:- (a) That the prescribed registration fee shall have been prepaid in addition to the postage. (b) That the application for compensation shall have been made within three months of the date of posting of the article in the case of loss of the article, and within one month of the date of delivery of the article in the case of loss of contents or damage. (c) That the amount of compensation shall , not exceed the actual amount of the loss or damage and that such amount can be referred directly to some loss or damage. (d) That the decisions of the Director-General on all questions of compensation shall be final. (2) No compensation will be given in the following cases:- (a) For loss or damage - In case in which this has been caused by the fault or negligence of the sender, or in which the contents of the registered article were articles which are not allowed to be sent by the Inland Post. (b) For damage - In cases in which the contents of the registered article are liquid or perishable articles or articles of an exceptionally fragile nature. NOTE 1 - No compensation will be given in cases in which the registered article contained anything the insurance of which is obligatory or which is not allowed to be sent in a letter, packet or parcel as the case may be. (c) the delivery of postal article at the house or office of the addressee, or to the addressee or his servant or agent or other person considered to be authorised to receive the article according to the usual manner of delivering postal articles to the addressee, shall be deemed to be delivery to the addressee."

It was argued by the appellant that the above referred provision 163(i)(b) of the rules made under the Postal Act say that the application for any compensation should have to be made within three months of the date of posting of the articles in the case of loss of the article and within one month of the date of delivery of the article in the case of loss of contents or damages. As per record the respondents had lodged the complaint with the

Postal Authorities only on 27.5.91 which comes to a period of more than eight months from the date of posting of the said letter on 25.5.90. The complaint was, therefore, liable to be rejected on account of this limitation of period in filing such claims with the postal authorities.

3. IT was argued by the appellants that the learned District Forum has not considered this provision of law while dealing this matter and passing the impugned orders. We find weight in this argument of the appellant as the facts and dates are fortified from the documents relied upon by the complainant himself.

It was further contended by the appellants that the learned District Forum has erred in holding that no further evidence was required from the complainant - who was respondent before us. A perusal of the District Forum records reveals that no evidence was adduced by the complainant. There is no formal affidavit even on record to support the claim and expenditure of the petitioners made before the District Forum. The losses and compensation claimed by the complainant was obviously not supported by any evidence and appeared to be arbitrary and hypothetical.

4. IT was also argued by the appellants that conclusion drawn by the learned District Forum that the appellants should have taken care to inform all such persons about the loss whose letters had been burnt by the riot mob during Ant Mandal Agitation was also not correct. The Post Offices were receiving and delivering huge quantity of mail and it was obviously not possible to keep the information of every "mail" and to send the same to concerned persons. As regards the registered letters this position has been discussed in the light of the facts of this case in the context of the provisions made under Rule 163 of the Indian Post Office Act. As per records of the lower Forums no other act of negligence has been established by the complainant against the appellants.

The next point urged by the appellants was that according to Section 6 of the Indian Post Office Act, exemption has been granted to the appellants from any liability for loss, misdelivery, delay or damages. Section 6 of the Indian Post Office Act 1898 reads as follows:

"The government shall not incur any liability by reason of the loss, misdelivery or delay of or damage to any postal article in course of transmission by post, except in so far such

liability may in express terms be undertaken by the Central Government as hereinafter provided and no officer of the Post Office shall incur any liability by reason of any such loss, misdelivery, delay or damage, unless he has caused the same fraudulently or by his willful act or default."

Section 30 of the said Act is also reproduced for ready reference which provides:

"30(a) that any postal article may, subject to the other provisions of this Act, be insured at the post office at which it is posted, against the risk of loss or damage in course of transmission by post, and that a receipt therefore shall be granted to the person posting it, and (b) that, in addition to any postage and fees for registration chargeable under this Act such further fee as may be fixed by the notification shall be paid on account of the insurance of postal articles."

In the light of the above provisions of Sections 6 & 30 of the Indian Post Office Act 1898 the appellant cannot be held responsible for any such liability or damages unless the packet was got insured under Section 30 of the Indian Post Office Act 1898. It was not the case of the respondents that they had insured the letter. In a case *Union of India v. M/s. Deepak Kumar & Co.* (appeal No.4/90) decided by this Commission on 17.7.90 we have already held that in view of the mandatory provisions of law such claims were not maintainable. The ratio and broad facts of the above quoted case are applicable to the instant case.

The letter was registered and sent on 25.9.90. The complainant for the 1st time reported the matter to Postal authorities on 27.5.91 i.e. after a gap of more than eight months. The same was replied by the postal authorities on 14.6.91. The next letter written by the complainant was 30.7.91 which was also replied by the postal authorities on 3.9.91 informing him the final position of the letter having been burnt by the mob. The appellants have also expressed their regret for the inconvenience caused to the complainant vide this letter.

5. IN our view the postal authorities in the facts and circumstances of this case had been quite responsible by sending their reply to the 1st letter within 17 days of the posting of the same and within 60 days after the 2nd letter dated 30.7.91 sent by the complainant. It need not be discussed that in our set up and approved procedures any department like that post office have to take some time for necessary investigation before sending a reply to such type of complaints which are likely to create any liability for the department which are having long and serious repercussions amongst the public at large.

6. IN the light of the above discussed factual position on record and explicit provisions made under Rule 163 (1b) and Section 6 of the Post Office Act we are inclined to accept the appeal and the impugned order dated 31.3.92 passed by the learned District Forum are set-aside and the complaint filed by the respondent is dismissed. No order as to costs. Appeal allowed.