

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 319 of 2015

1. Post Master, Main Post Office, Jagdalpur, District Bastar (C.G.)
2. Superintendent of Posts, Main Post Office, Jagdalpur, District Bastar (C.G.)
---- Petitioners

Versus

1. Ku. Sandhya Tandiya D/o Late Rikieshwar Tandiya, R/o Santoshi Ward, Jagdalpur, Tahsil Jagdalpur, District Bastar (C.G.)
2. Permanent Lok Adalat, Public Utility Services, Bastar, District Bastar (C.G.)
---- Respondents

For Petitioners : Mr. B.Gopa Kumar, Assistant Solicitor General of India.
For Respondent No. 1 : Mr. Pravin Kumar Tulsyan, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

19/07/18

1. The short question involved in this writ petition is whether Permanent Lok Adalat, Public Utility Services is justified in granting damages to the extent of Rs. 25,000/- to respondent No. 1 in light of the provisions contained under Section 6 of the Indian Post Office Act, 1898 (hereinafter referred to as 'Act of 1898') read with the Indian Post Office Rules, 1933 and the notification / circular dated 01st October, 2012.

2. The respondent No. 1 herein has made an application for the post

of Class-III / Class- IV to the Bastar University, Jagdalpur for which he sent an application by speed post on 22.12.2012 and paid the necessary postal charges, as the last date for submission of the application was 24.12.2012, but the application reached the Bastar University on 26.12.2012 and since the application was not received well in time, respondent No. 1 was not called for interview, leading to filing of claim before the Permanent Lok Adalat claiming damages to the extent of Rs. 20,00,000/- with interest at the rate of 18% and cost.

3. The petitioner – Union of India has filed reply stating *inter alia* that as per the internal departmental procedure the postal article was sent by the petitioner to Raipur and thereafter, it was delivered to Bastar University on 26.12.2012 and in view of the provisions contained under Section 6 of the Act of 1898, for delay in transmission of the postal article, the petitioner is not responsible as the delay has not been caused fraudulently or willingly and, therefore, the petitioner / Union of India is not responsible for the damages, if any, in light of Section 6 of the Act of 1898.

4. The said Court framed three issues and answering those issues held that the delay occurred in transmission by speed post was due to internal departmental procedure by which respondent No. 1 was deprived to have an interview with the Bastar University and further held that respondent No. 1 is only entitled for compensation equal to the composite

of postal charges but which is not practical and, therefore, proceeded further and awarded Rs.25,000/- along with interest, cost and legal fee to respondent No. 1 finding deficiency in services of Public Utility, leading to filing of this writ petition by the petitioner – Union of India questioning the said order.

5. Mr. B. Gopa Kumar, learned counsel appearing for the petitioner / Union of India submits that the order passed by the Permanent Lok Adalat is in teeth of the provisions contained under Section 6 of the Act of 1898. He would further submit that even the issue of tortious liability, if any, cannot be adjudicated by the Permanent Lok Adalat and alternatively submits that at the best, respondent No. 1 is entitled for compensation equal to the composite speed postal charges paid by respondent No. 1 and as such the writ petition be allowed setting aside the order passed by the Permanent Lok Adalat.

6. On the other hand, Mr. P. K. Tulsyan, learned counsel appearing for respondent No. 1 would support the impugned order and submit that the speed post is an extra ordinary service provided to the public taking additional service charges for prompt and expeditious delivery of the postal articles and, therefore, the petitioner cannot dis-own his liability to pay damages in case of default in prompt delivery of the postal articles, as such, no exception can be taken to the order passed by the learned Permanent Lok Adalat and the writ petition deserves to be dismissed.

7. I have heard learned counsel for the parties, considered their rival submissions made herein above and went through the records with utmost circumspection.

8. In order to consider the plea raised at the Bar, it would be appropriate to notice Section 6 of the Indian Post Office Act, 1898 which states as under :-

“6. Exemption from liability for loss, misdelivery, delay or damage.- 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 as 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 wilful act or default.

9. From a perusal of the aforesaid provision, it is clear that the Post Office which is run by the Government shall not be liable for delay caused in delivery of the postal articles either by ordinary or registered post, except the liability which may be expressed in terms undertaken by the Central Government. The Indian Post Office Rules have been framed which has been amended vide GSR 734 (E) dated 01st October, 2012 which states as under :-

“(5) There will be no delivery of these articles on Sundays and other holidays in the post offices concerned.

Explanation : For the purposes of this rule “Inland Speed Post Service means the service which seeks to deliver postal articles within stipulated time, specified in respect of each city or town, as the case may be from time to time, by a special messenger or conveyance.

In case of delay in delivery 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 charges 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 of Rs,1,000 whichever is less.”

10. The liability of the post office is not contractual but statutory. The Post Office is the department of the Central Government and it is not a common carrier. Thus, the Central Government has undertaken the liability to pay compensation equal to the composite speed post charges paid by respondent No. 1, in case of delay in delivery of domestic speed postal articles beyond the norms determined by the Indian Post Office Rules.

11. The norms in the Service Standards of services provide by the Department of Post (DOP) has been filed as Annexure- P/7 which is as under :-

S.No.	Services/ Transaction	Success Indicators	Service Standards	Unit
A	Service Standards of various services for Departmental Post Offices			
1.4	Delivery of Speed Post articles	Local and between Metro Cities *Local- within Municipal City limits **Metro- Delhi, Mumbai, Kolkata, Chennai, Hyderabad and Bengaluru.	2	Days
		Rest of India	4-6	

12. Thus, for delivery of the speed post article only two days time has been provided excluding the days of posting, holidays and Sundays.

13. The Supreme Court in the case of Union of India v. Mohd. Nazim¹, has held that Post Office being the department of Government is not a common carrier and pertinently observed as under :-

“8. These are only some of the provisions of the Act which seem to indicate that the post office is not a common carrier, it is not an agent of the sender of the postal article for reaching it to the addressee. It is really a branch of the public service, providing postal services subject to the provisions of the Indian Post Office Act and the rules made thereunder...”

14. Similarly, the Full Bench of the Allahabad High Court in the case of Ganga Ram v. Smi. Phulwati², has observed in paragraph 12 as under :-

1 AIR 1980 SC 431
2 AIR 1970 Allahabad 446

“12. When a registered article or registered letter is handed over to an accepting or receiving post office, it is official duty of the postal authorities to make delivery of it to the addressee. Human experience shows that except in a few exceptional cases letters or articles received by the post office are duly, regularly and properly taken to the addressee. Consequently as a proposition it cannot be disputed that when a letter is delivered to an accepting or receiving post office it is reasonably expected that in the normal course it would be delivered to the addressee. That is the official and the normal function of the post office.”

15. Reverting to the facts of the present case, after noticing Section 6 of the Act of 1898, it is quite vivid that admittedly, there was delay in course of transmission of the postal article sent by the petitioner to the Bastar University but by virtue of the provisions contained in Section 6 read with Rules of 1933 along with the notification dated 01st October, 2012, the petitioner is not liable to pay damages and respondent No. 1 is only entitled for compensation equal to the composite speed post charges which he has paid and nothing less and nothing more. Therefore, the Permanent Lok Adalat is absolutely unjustified in holding that the petitioner is entitled for Rs.25,000/- ignoring the mandate of Section 6 of the Act of 1898 and the Rules made thereunder merely on the ground that such a compensation is not practical when the Act provides. Therefore, the order passed by the Permanent Lok Adalat is liable to be set aside.

16. In sum and substance, the order passed by the Permanent Lok Adalat granting damages to the extent of Rs. 25,000/-, along with interest, cost and Advocate fee deserves to be and is hereby set aside being contrary to Section 6 of the Indian Post Office Act and Rules made thereunder and consequently, it is hereby quashed and the application filed by respondent No. 1 stands dismissed leaving the parties to bear their own costs.

SD/-

(Sanjay K. Agrawal)
Judge