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Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and diploma in Public

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Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



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Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

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BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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PRADEEP KUMAR AND ANR. V/S POSTMASTER
GENERAL AND ORS.
(CIVIL APPEAL NO. 8775-8776 OF 2016)

AUTHORED BY: ISHIKA SHAW

INTRODUCTION:

The case of *Pradeep Kumar and Anr. vs. Post Master General and Ors*¹ revolves around the principle that both Post Offices and Banks can be held liable for any fraudulent or wrongful actions carried out by their employees. The case examines that the Individual employees have the inherent potential to engage in acts of dishonesty and commit fraudulent or wrongful deeds, either independently or in collaboration with others. When such actions transpire within the course of employment by bank or post office personnel, it imposes a binding obligation on the bank or post office to answer for these transgressions, particularly in response to the grievances of those adversely affected by the fraudulent or wrongful conduct of these institution's officers.

The aforementioned actions by employees of banks or post offices, conducted within the scope of their professional duties, empower the aggrieved parties with the legal standing to pursue remedies in the event of injury. This legal recourse represents their primary means of seeking reparation from the post office. Consequently, much like banks, post offices retain the capacity and the right to take legal action against their employees responsible for the losses incurred due to fraudulent activities.

However, it's vital to underscore that such legal action by the post office against its employees does not absolve the post office from liability when the actions in question were performed within the confines of the employee's official responsibilities. In essence, the post office remains accountable for such actions, and the legal avenue remains open for the victims of these actions to secure compensation for their losses.

¹ Pradeep Kumar v. Postmaster General, Civil Appeal No. 8775-8776 of 2016.

FACTS OF THE CASE:

In the fiscal year 1995-96, the appellants collectively invested in Kisan Vikas Patras (KVPs) from different post offices in Uttar Pradesh. These investments varied in denominations and maturity dates, totalling Rs. 32.60 lakhs at maturity. The KVPs allowed for premature encashment at post offices, albeit at a diminished value, following a specific holding period.

In February 2000, the appellants sought to transfer their Kisan Vikas Patras (KVPs) between post offices but were informed that the process was cumbersome. The Post Master suggested engaging an agent associated with the Uttar Pradesh state to facilitate the transfer, assuring the appellants of the agent's role in safeguarding their interests. Trusting the agent's expertise, the appellants handed over their original KVPs, which bore their signatures, along with Monthly Income Scheme (MIS) documents. The agent issued a receipt confirming the reception of the KVPs. Despite ongoing reassurances, the appellants discovered in June 2000 that the agent had engaged in fraudulent activities, resulting in the encashment of their KVPs and the misappropriation of the entire amount. Subsequent investigations hinted at potential participation of the Postmaster who endorsed the agent.

As Pradeep Kumar, the first appellant, left the city, Raj Rani, the second appellant, maintained communication with the agent. It was only in June 2000 that they learned of the agent's fraudulent actions and subsequent arrest. Despite their efforts to resolve the matter with unresponsive parties, the appellants filed a complaint under the Consumer Protection Act with the National Consumer Disputes Redressal Commission (NCDRC). However, the NCDRC dismissed the complaint, citing adherence to Rules 14 and 15 of the Kisan Vikas Patra Rules, suggesting that if the appellants couldn't recover the amounts from the agent, legal action against the State could be pursued.

CONTENTION FROM APPELLANT:

In the legal dispute of Pradeep Kumar vs. Postmaster General, the appellants raised a range of legal arguments aimed at contesting the decision made by the National Consumer Disputes Redressal Commission (NCDRC) that they had been victims of misrepresentation and deceptive practices. Their argument rested on the claim that they were under the impression that employing the services of the agent was a necessary step for transferring their Kisan Vikas Patras (KVPs) and that the agent would act in their best interests. According to the appellants, this

misrepresentation played a pivotal role in their decision to engage the agent's services.

Furthermore, they alleged that the responsible authorities, including the Postmaster and the State of Uttar Pradesh, had neglected their duty to properly oversee and monitor the agent's activities. The appellants contended that this lack of diligence and inaction on the part of the authorities had effectively allowed the agent to engage in fraudulent activities, ultimately resulting in significant financial losses on their part.

CONTENTION FROM RESPONDENT:

The respondents put forth the argument that Ruksana, the agent involved, did not hold an official appointment from the post office; instead, she had engaged in a contractual relationship in her individual capacity. Consequently, they asserted that the post office should not bear vicarious liability for any contract formed between the appellants and the agent. Essentially, the respondents contended that the post office bore no direct responsibility for the conduct of an autonomous contractor operating independently.

Additionally, the sub postmaster, who was also a respondent, contended that the complaint lodged by the appellants lacked merit. He maintained that he had correctly disbursed the funds to the designated recipient, thereby fulfilling his legal obligations. As per his argument, the post office had discharged its responsibilities in a valid manner, and he had not violated any pertinent legal provisions during the course of this action.

ISSUES:

1. Whether the Post Office officials negligent in their duties?
2. Did the appellants contribute to the negligence in any way?
3. Can the post office be held accountable for the fraudulent conduct of its employee?

ORDER BY NCDRC:

While acknowledging some negligence on the part of the respondents regarding the payment process, the NCDRC dismissed the complaint against them. They argued that the respondents' actions were consistent with Rules 14 and 15 of the 1988 Rules. The NCDRC noted that Rule 19, which required payment by check for discharge values over Rs. 20,000, came into effect on August 28-29, 2001, whereas the KVPs in question were cashed in June 2000.

In addition, the appellants' conduct raised doubts about their veracity. It was puzzling why they had signed and acknowledged payment on the back of the KVPs and then entrusted them to an unknown agent. By doing so, they knowingly assumed risks and acted without due diligence. The NCDRC dismissed the claim that the KVPs were transferred to Rukhsana without a formal transfer application. Given that Appellant No.1 was well-educated, it was expected that he would exercise reasonable care.

The NCDRC, attributing negligence to the appellants, dismissed their complaint against the respondents, including the postmaster. Rukhsana, identified as a service provider, was deemed responsible for a payment of Rs. 25,54,000, coupled with a 9% per annum interest rate calculated from the date of the amount's release from the post office until recovery by the appellants. Additionally, Rukhsana was directed to furnish Rs. 1,00,000 as compensation and Rs. 10,000 for litigation expenses. The appellants were given the option to pursue legal action against the state for its role in appointing Rukhsana as an agent, considering both actions and oversights.

JUDGEMENT:

- Section 3 of the Negotiable Instruments Act, 1881², defines a 'banker' to encompass any individual or entity performing the role of a banker, including the post office savings bank, thus categorizing post office savings banks as bankers under the NI Act.
- Kisan Vikas Patras (KVPs) are recognized as negotiable instruments in accordance with Section 133 of the NI Act.
- The Supreme Court, referencing the *U. Ponnappa Moothan Sons, Palghat v. Catholic Syrian Bank Limited and Others*⁴ case, emphasized that the presumption outlined in Section 118(g) does not apply to Ruksana. This is because she was not an indorsee, and the instrument was registered in the appellants' name. Additionally, Ruksana cannot be classified as a holder in due course, given her acquisition of the instrument through fraudulent means and her lack of the right to sue the maker, acceptor, or indorser for the recovery of the amount due. Importantly, the KVPs were not endorsed in favor of Ruksana; she merely acted as a conduit for altering the KVP details.
- The appellants conducted themselves in good faith and without negligence. The court

² The Negotiable Instruments Act, 1881, § 3, No. 26, Acts of Parliament, 1881 (India).

³ The Negotiable Instruments Act, 1881, § 13, No. 26, Acts of Parliament, 1881 (India).

⁴ *U. Ponnappa Moothan Sons, Palghat v. Catholic Syrian Bank Ltd.*, 1991 AIR 441, 1990 SCR Supl. (1) 542.

underscored the fact that Kisan Vikas Patras (KVPs) were not simple bearer instruments that could be redeemed by anyone presenting them. Rule 11 specifically mandated an identity slip, especially when the KVPs were not presented at the place of issuance. In this case, the prescribed requirement for an identity slip was not satisfied. Additionally, there was no evidence supporting the claim that the Officer-in-charge at the Post Office accepted the identity slip or verified its authenticity with the issuing post office to confirm Rukhsana's entitlement to the certificate. Consequently, there was a breach of Rules 9 and 11 of the 1988.

- Moreover, breaches extended to Clauses 23(1) and 23(2) of the Post Office Bank Manual (Volume 2). These clauses mandated that if a Kisan Vikas Patra (KVP) was presented for cashing at a post office in India conducting savings bank operations where it was not registered and lacked an accompanying identity slip, the holder was obliged to submit an application indicating the intent to cash the KVP at an alternative post office. This application was required to specify the name of the registered post office for the KVP, along with comprehensive certificate details, encompassing the serial number, date of issuance, and registration number. Unfortunately, these specified requirements were not fulfilled in the present case.
- The Court also noted that the NCDRC had erred in its assertion that Rule 19, calling for payments exceeding Rs. 20,000 to be made by check, took effect on August 28-29, 2001, failing to acknowledge letter No. 95-8/98-SP dated 18.08.1999, which mandated immediate check payments for sums exceeding Rs. 20,000. The NCDRC was excessively critical in deeming the appellants negligent based on their perceived silence. The Supreme Court observed that it was reasonable to assume that the appellants maintained continuous communication with Ruksana and anticipated that the process would take time.

ANALYSIS OF THE JUDGMENT:

The actions and conduct of the Postmaster in question raise significant concerns about the presence of good faith and integrity in this particular situation, essentially classifying it as a case of fraudulent behaviour on the part of a post office official. This prompts the need for a more comprehensive examination of the motives and behaviours of the Postmaster.

Given these circumstances, the decision made by the Supreme Court to overturn the NCDRC's ruling appears to be a judicious one. The Supreme Court displayed a keen understanding of the

situation by correctly identifying that M.K. Singh, the Postmaster under scrutiny, was not an unconnected third party; rather, he was an integral component of the post office, both an officer and an employee. It's essential to emphasize that institutions such as the Post Office, much like any other organization, operate primarily through their personnel. These individuals, as employees, can indeed engage in dishonest actions and perpetrate acts of fraud or other forms of wrongdoing, either independently or in collaboration with others.

Consequently, when employees of a bank or post office engage in such activities within the course of their employment, it becomes imperative to hold the respective bank or post office accountable for the actions of their officers. This accountability should be triggered at the request of individuals who have suffered harm as a direct consequence of the fraudulent or wrongful activities of these bank or post office officers. In essence, such actions by bank or post office employees, when conducted within the scope of their employment duties, should provide the appellants with a valid legal basis to pursue remedies for the damages they have incurred. This, indeed, represents their primary and most justifiable recourse against the post office or bank in cases of this nature.

However, it is pivotal to note that the post office, much like a bank, maintains the option and entitlement to take legal action against the employees responsible for the losses incurred due to fraudulent activities and similar transgressions. Nonetheless, it is imperative to recognize that this legal action taken against the employees should not absolve the post office from its overarching liability, particularly when the involved employee was acting within the sphere of their employment and official duties.

In summary, this legal decision carries significant implications as it effectively extends the application of the doctrine of vicarious liability to encompass not only banks but also post offices. This ruling highlights the principle that in cases where a fraudulent act is committed by an employee during the course of their employment, the institution, whether a post office or a bank, cannot evade responsibility merely by initiating legal proceedings against the erring employee. This decision underscores the importance of accountability and serves as a safeguard for those who have been harmed by the fraudulent actions of employees within such institutions, whether they are banks or post offices.

CONCLUSION:

In the case of Pradeep Kumar v. Postmaster General, the appeal resulted in a significant and favourable decision. The National Consumer Disputes Redressal Commission (NCDRC) had previously issued an order that was subsequently set aside by the supreme court. The implications of this ruling were profound. The decision not only upheld the appeal but also placed responsibility on the Respondents for their actions in this matter. Their liabilities were clearly defined and significantly impacted the outcome.

The court, in its judgment, held the Respondents jointly liable for the entire maturity value of the Kisan Vikas Patras (KVPs) that were central to this case. The KVPs were to be calculated along with a 7% simple annual interest. This ruling was a pivotal moment, ensuring that both appellants received just compensation for the damages they had suffered.

Moreover, the court's decision outlined a clear and fair timeline for the settlement. The appellants were granted the right to receive their compensation within an eight-week window following the pronouncement of the judgment. This served as an important aspect of the judgment, underscoring the court's commitment to timely remedies for those who had been wronged.

The judgment also incorporated a vital provision for the protection of the appellants' rights. It stated that if the compensation was not disbursed within the specified eight-week timeframe, the Respondents would be subjected to additional financial penalties. In such a scenario, they would be obligated to pay a simple interest rate of 7% per annum on the compensation amount that was due to the appellants. This provision not only underscored the importance of adhering to legal timelines but also ensured that the appellants would not be further disadvantaged by any potential delays.

The decision in the case of Pradeep Kumar v. Postmaster General was a significant victory for the appellants, as it not only upheld their rights and provided them with just compensation but also emphasized the importance of timeliness and accountability within the legal process. This landmark judgment served as a clear reaffirmation of the justice system's commitment to protecting the rights of individuals who have suffered wrongs and providing them with timely and fair remedies.

The Supreme Court, established a precedent wherein it unequivocally affirmed that both post offices and banks can indeed be held accountable for any fraudulent activities or wrongful deeds perpetrated by their employees. This legal principle operates under the umbrella of vicarious liability, a concept wherein the employer is held responsible for the actions of their employees, particularly when such actions occur within the scope of their employment.

