

GOVERNMENT OF JAMMU & KASHMIR
DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
BARAMULLA/BANDIPORA

Coram: -

1. Peerzada Qousar Hussian

..... President

2. Ms Nyla Yaseen

..... Member

Consumer Complainant No: 45/2023



1. M/S Royal Builders

Through Managing Partner

Khursheed Lone S/o Haji Ghulam Rasool Lone

R/o Kanispora, District Baramulla.

.....(Complainant)

Versus

1. Rahis Mirza

S/o Amin Ud Din Mirza

R/o A-97-98 JJ Colony Phase 2 Nangloi India.

2. Aftab Mirza

S/o Amin Ud Din Mirza

R/o A-97-98 JJ Colony Phase 2 Nangloi India.

.....(Opposite Parties)

Date of Institution: 28-11-2023

Date of Decision: 31-12-2024

Appearing Counsel: -

Ld Adv. Asif Abdullah Wani & Associates

Nemo for the O.Ps

ORDER

The present complaint has been filed by the complainant before this Commission on 28th of November, 2023, alleging therein deficiency in service on the part of O.Ps with the prayer to direct the O.Ps to pay an amount of Rs.10 Lacs along with the interest @ 18% from the date of payment till its realisation and Rs.4,50,000/- as compensation for indulging into unfair trade practice and putting the complainant into mental harassment and anxiety.

Brief facts of the case are as under: -

The complainant is a domicile of the J&K Union Territory and hails from District Baramulla. The contention of the complainant is that he telephonically placed an order of 3000 PTCC coils for defence supply with certain specifications and the time limit for which he paid an advance amount of Rs.10 lacs to the O.Ps on 18th of October, 2021. Although, the O.Ps supplied the material to the complainant on 9th of November, 2021, but the same was completely rejected by the concerned authorities as the material did not qualify the standard as well as the specifications.

The complainant's contention is further that he brought the issue into the notice of the O.Ps who managed to resolve the dispute by deputing some technicians for rectification. The technicians after visiting the site immediately informed the opposite party that the material supplied needs to be rectified. Although, the material was rectified by the technicians but the quantity of the material got reduced to almost half of the actual value. The complainant accordingly informed the opposite parties regarding the quantity of the material which got reduced to half of its actual value, which flaw was acknowledged by the O.Ps who assured the complainant to supply the rest of the material within 15 days but the same was not done and the complainant suffered huge loss and inconvenience.

Since, the material was to be supplied to the defence and keeping in consideration the National security concern, the complainant consistently approached the O.Ps and requested them either to supply him the rest of the material or refund the payment, so as to enable him to get the supply from any other vendor. Although, the O.Ps assured the complainant to refund the payment within a week's time but neither the payment was refunded nor the remaining material was supplied to the complainant, which constrained the complainant to get the supply from other vendor on inflated rates as the costs of the said material were tremendously inflated during that period. Subsequently, the complainant approached the District Consumer Disputes Redressal Commission Baramulla for redressal of his grievances.

Notices were issued to the O.Ps but despite service, they didn't choose to appear before the Court, consequent upon which they were set to Ex-Parte

In the meanwhile, the complainant submitted evidence affidavits of Nissar Ahmad Farash S/o Ali Mohammad Farash R/o Khanpora Baramulla, Javid Ahmad Bhat S/o Abdul Rashid Bhat R/o Hygam Baramulla and Khursheed Ahmad Lone S/o Haji Ghulam Rasool Lone R/o Kanispora Baramulla, the complainant as witness in his own case. The witnesses on affidavits stated that the complainant placed an order of 3000 PTCC coils for defence supply with specifications and time limit, for which an amount of Rs.10 Lacs was paid to the O.Ps on 18th of October, 2021. The O.P supplied the material to the complainant on 9th of November, 2021. However, the same was rejected by the concerned authorities being substandard and not as per the specifications. The complainant brought the issue into the notice of O.Ps, although the O.P agreed to rectify the flaw and also assured to resolve the issue but nothing was done in the matter which caused huge loss to the complainant.

Heard the Ld counsel appearing for the complainant. Perused the records meticulously placed on the file along with the written arguments advanced by the complainant's Ld counsel which reflects that the complainant telephonically placed an order of 3000 PTCC coils on 18th of October, 2021 for defence supply with specifications, quality and delivery timeline against which an amount of Rs. 10 lacs was paid by the complainant. The opposite parties admittedly supplied the material to the complainant on 9th of November, 2021, however the same was rejected by the concerned authorities as the material was not up to the mark or as per the agreed specifications. The opposite parties were duty bound to supply the

material to the complainant with the specifications, quality and standard as per the agreed contract. The O.Ps have Ipso Facto rectified the defects and resolved the issue but the quantity of the material supplied to the complainant was reduced to almost half of its actual value. The O.Ps were supposed to supply the remaining material to the complainant or to return the value of the same which has not been done and the same action of the O.Ps amounts to unfair trade practice and deficiency in service in accordance with Section 2(11) and Section 2(47) of the Consumer Protection Act, 2019.

The Hon'ble National Commission in the case Heeralal versus State of Bihar citation 1-1998 has held that the O.Ps' failure to provide goods conforming to the agreed specifications constituted a deficiency in service and violation of Section 2(1)(G) of the Consumer Protection Act, 1986, now Section 2(11) of the Consumer Protection Act, 2019.

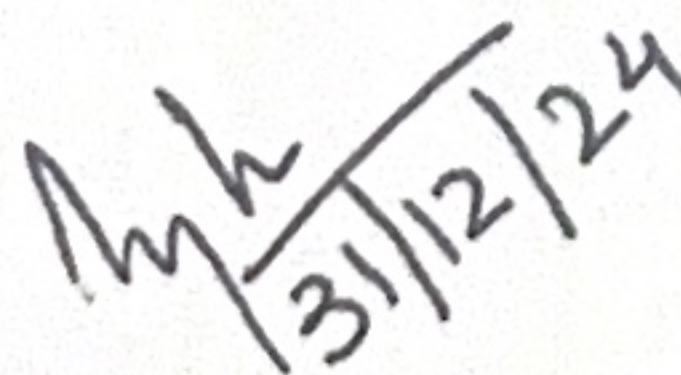
Therefore, relying on the aforesaid judgement passed by the Hon'ble National Commission, We are of the considered view that the suppliers (O.Ps) are liable for delivering goods that are not of acceptable quality. As such, the present complaint deserves to succeed against the O.Ps and the complainant is entitled to be compensated for the loss caused due to the rectification of the material supplied by the O.Ps. As such, the complaint is allowed and disposed of with the following directions:-

1. The O.Ps are directed to refund an amount of Rs. 5 lacs (Rupees Five Lacs) to the complainant out of the principal amount as value of the remaining material with interest @ 8% from the date of the order till its realisation.
2. The O.Ps are further directed to pay an amount of Rs. 2 lacs (Rupees Two Lacs) as compensation for unfair trade practice, deficiency in service and for putting the complainant into harassment and anxiety.
3. The O.Ps are further directed to pay Rs. 30,000/- (Thirty Thousand Rupees) to the complainant as litigation charges.
4. The O.Ps are further directed to pay Rs. 10,000/- (Rupees Ten Thousand) towards the Consumer Welfare Fund Baramulla.

The O.Ps will comply with this order within a period of 4 weeks from the date the copy of this order is served upon them.

Order announced

Date: 31-12-2024


Nykhatun
District Consumer Disputes
Redressal Commission
Baramulla


Peerzada Qasim Hussain
President
District Consumer Disputes
Redressal Commission
Baramulla

Copies of this Order be provided to the parties and the file be consigned to records after due completion.