

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-I,
U.T. CHANDIGARH**

Consumer Complaint No.	:	CC/146/2022
Date of Institution	:	31.1.2022
Date of Decision	:	9/04/2024

Sushil Gupta, S/o Sh. J. R. Gupta, R/o House No. 3959, Sector-22/D, Chandigarh, now R/o House No. 26, Sector-22/A, Chandigarh.

COMPLAINANT

VERSUS

1. The Voltas Limited, Head Office, 1 Floor, SCO 194-195, Sector 54- A (Phase-II), Chandigarh (PIN: 160059).

2. The Cool Star Refrigeration, SCO No. 177/3, Sector 45, Chandigarh (PIN: 160045)!

3. Gaurav Kumar, Executive/ Technician, C/o The Voltas Limited, Head Office, 1st Floor, SCO 194-195, Sector 54-A (Phase-II), Chandigarh (PIN: 160059).

OPPOSITE PARTIES

CORAM :	SHRI PAWANJIT SINGH MRS. SURJEET KAUR SHRI SURESH KUMAR SARDANA	PRESIDENT MEMBER MEMBER
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ARGUED BY : Sh. Vipul Goel, Advocate for complainant
: Sh. Sant Ram, Advocate for OPs No.1&3.
: OP No.2 exparte.

Per Pawanjit Singh, President

1. The present consumer complaint has been filed by the complainant under Section 35 of the Consumer Protection Act 2019 against the opposite parties (hereinafter referred to as the OPs). The brief facts of

the case are as under :-

- a. It transpires from the averments as projected in the consumer complaint that the complainant purchased a voltas refrigerator (hereinafter to be referred as subject refrigerator) from the OP No.2, In the Month of September 2021, there was water leakage in the subject refrigerator and accordingly the complainant approached the OPs for repair of the same and t lodged the complainant for its repair vide request No.21092308911 & 21092308990 on 23.9.2021 . The copy of messages is annexed as Exhibit C-2. Thereafter the OPs deputed Sh. Gaurav Kumar Executive/technician who came to attend the complaint lodged by the complainant on 24/25 September 2021 and tried to remove the defect i.e. water leakage problem from the subject refrigerator for which he charged Rs.1800/- from the complainant. However, despite of receiving the aforesaid amount from the complainant the defect could not be removed from the refrigerator and the water leakage again started. On 26.9.2021 the complainant received a message on his mobile number from Ops that his request No. 21092308990 has been cancelled. Since the Executive/Technician of the Ops had already attended the said complaint and charged Rs.1800/- from the complainant, there was no question of cancellation of the aforesaid complaint. Again on finding water leakage problem in the subject refrigerator, the complainant made complaint again vide request No.21100205699 on 2.12.2021. On 4.10.2021 a message was sent to complainant by the OPs to produce purchase document proof of the subject refrigerator. It is alleged that despite of numerous complaints filed by complainant, the OPs have failed to redress the grievance of the complainants till date and did not remove the defect from the subject refrigerator despite of charging Rs.1800/- from the complainant, hence aforesaid act amounts to deficiency in service and unfair trade practice on the part of OPs. OPs were requested several times to admit the claim, but, with no result. Hence, the present consumer complaint.
 - b. OPs No.1&3 resisted the consumer complaint and filed their written version, inter alia, taking preliminary objections of maintainability, cause of action and concealment of facts. It is admitted that the subject refrigerator was under warranty and the OPs have never refused any service to the complainant. The technical staff of the OPs have visited the house of the complainant who did not allow them to entertain any inspection by the technical staff and there is no deficiency of service on the part of the OPs. It is alleged that no complaint was formally lodged by the complainant with the answering OPs as had the complaint been lodged by the complainant, answering OPs would have redressed the grievance of the complainant. It is further alleged that in fact the complainant did not cooperate with the official of the company and the complaint of the complainant being false and frivolous is liable to be dismissed. On merits, the facts as stated in the preliminary objections have been re-iterated. The cause of action set up by the complainant is denied. The consumer complaint is sought to be contested.
 - c. OP No.2 was properly served and when OP No.2 did not turn up before this Commission, despite proper service, it was proceeded against ex-parte on 22.11.2022.
 - d. Despite grant of numerous opportunities, no rejoinder was filed by the complainant to rebut the stand of the contesting OPs.
2. In order to prove their case, contesting parties have tendered/proved their evidence by way of respective affidavits and supporting documents.
 3. We have heard the learned counsel for the contesting parties and also gone through the file carefully, including the written arguments on record.
 - i. At the very outset, it may be observed that when it is an admitted case of the contesting parties that the complainant had purchased the subject refrigerator from OP No.2, manufactured by OP No.1 and on finding the water leakage problem in the subject refrigerator, the complainant has lodged numerous complaints with the OPs within the warranty period which fact has not been denied by the OPs No.1&3 in their written version, the case is reduced to a narrow compass as it is to be determined if the aforesaid act of the OPs amounts to deficiency in service and the complainant is entitled for the relief as prayed or if the complaint being not maintainable is liable to be dismissed as is the defence of the contesting OPs.
 - ii. The complaint has been resisted by the contesting OPs on the ground that the complainant had not lodged any complaint with the OPs and even did not allow the technician of the OPs to inspect the subject refrigerator in his house and also that the OP No.3 has not charged any amount from the complainant for the removal of the defect in question.
 - iii. However, the aforesaid defence of the contesting OPs stands falsified from the whatsapp messages sent by the complainant and OP No.3 to each other as is evident from Exhibit C-3,

which clearly indicates that OP No.3 has categorically admitted in the message that he had received the aforesaid amount of Rs.1800/- from the complainant.

iv. So far as the other defence of the contesting OPs that the complainant never lodged complaint with the OPs is concerned, a perusal of Annexure C-2 copies of the request numbers which were received by OP No.1 from the complainant clearly indicates that the complainant has lodged the complaints with the OPs in respect of the defect in question several times and the OP No.1 assured the complainant to redress his grievance, which is also evident from Annexure C-5 copy of mail sent by OP No.1 to the complainant. It is also admitted by the contesting OPs in their written version that the subject refrigerator was within warranty period when the complaint was received and as it is further proved on record that the OP No.3 being Executive/technician of the OPs No.1 received Rs.1800/- from the complainant for repair of the subject refrigerator but the despite of that they could not rectify the defect in the subject refrigerator, hence, the aforesaid act of OPs amounts to deficiency in service and unfair trade practice on their part, especially when the entire case set up by the complainant in the consumer complaint as well as the evidence available on record is unrebutted by the OPs. Hence, the instant consumer complaint deserves to be allowed.

4. In the light of the aforesaid discussion, the present consumer complaint succeeds, the same is hereby partly allowed and OPs are directed as under :-

- i. to refund ₹1800/- to the complainant alongwith interest @ 9% per annum from the date of receipt i.e. 25.9.2021 till onwards.
- ii. to pay an amount of ₹5000/- to the complainant(s) as compensation for causing mental agony and harassment to him;
- iii. to pay ₹5000/- to the complainant/s as costs of litigation.

5. This order be complied with by the OPs within 45 days from the date of receipt of its certified copy, failing which, they shall make the payment of the amounts mentioned at Sr.No.(i) & (ii) above, with interest @ 12% per annum from the date of this order, till realization, apart from compliance of direction at Sr.No.(iii) above.

6. Pending miscellaneous application(s), if any, also stands disposed off.

7. Certified copies of this order be sent to the parties free of charge. The file be consigned.

Announced

9/04/2024

mp

Sd/-

[Pawanjit Singh]

President

Sd/-

[Surjeet Kaur]

Member

Sd/-

[Suresh Kumar Sardana]

Member