

**IN THE CONSUMER DISPUTES REDRESSAL COMMISSION,
THRISSUR**

Present : Sri. C.T. Sabu, President
Smt. Sreeja. S., Member
Sri. Ram Mohan R., Member

28th day of October 2024
CC 412/21 filed on 08/11/2021

- Complainant : Ann Mary V.I., Valiyaveettil House,
Near KVR High School, Shornur -1,
Pin – 679 121.
(In Person)
- Opposite Parties : 1. HP World, Phoenix Systems, XIX/104-5, G2
Art of Living Tower, Poothole Road,
Thrissur, Kerala.
(Ex-parte)
2. Laptop Clinic, Grand Mall Building, 3rd
Floor, Shankarayya Junction, Thrissur.
(Ex-parte)

FINAL ORDER

By Sri.Ram Mohan R, Member :

1) Complaint in brief, as averred :

The complainant who is statedly a student residing at Thrissur, claims to have on 08/06/2020, purchased a Laptop from the first opposite party dealer, paying them a price of Rs. 34,500/- (Rupees thirty four thousand and five hundred only). In a few months thereafter, the Laptop went faulty, but was set right through instructions received over phone on 12/07/2020 and 11/02/2021. Again the Laptop became faulty in March 2021 and turned unusable. Though the Laptop was immediately taken to the first opposite party dealer, they declined to accept the same stating that services are provided by the second opposite party service centre. As it was also informed by the first opposite party that the second opposite party service centre would remain closed after

7P.M every day, the Laptop could not be entrusted on that day with the second opposite party service centre. As lockdown was declared shortly thereafter consequent to the second wave of covid-19 pandemic, the complainant could not reach the second opposite party service centre for handing over the laptop in question to them for repairs. Enquiries made by the complainant in this regard through phone and whatsapp statedly elicited no result.

On 24/06/2021, the complainant could directly produce the laptop at the second opposite party service centre and hand over the same to them for repairs, the second opposite party having issued acceptance report of the same, as well. While the same was returned after repairs on 01/07/2021, the second opposite party collected from the complainant a sum of Rs. 850/- (Rupees eight hundred and fifty only), though the fault in question manifested itself and was reported during the period of warranty itself. Again, the laptop went faulty in the same week itself. Though the same was given for repairs on 20/09/2021, the laptop turned unusable immediately thereafter. The complainant alleges manufacturing defect in the laptop and also deficiency in service on the part of the opposite parties in their having not provided the complainant with the free of charge servicing of faults which were reported during the period of warranty. Hence the complaint. The complainant prays for an order directing the opposite parties to replace the laptop in question with a new one, apart from other reliefs of compensation and costs.

2) NOTICE :

The Commission issued notice to both the opposite parties. Both the opposite parties have not cared to file their written version or to contest the complaint before the Commission, despite their having received the Commission's notice to that effect. Consequently proceedings against both the opposite parties were set ex-parte.

3) Evidence :

The complainant produced documental evidence that had been marked Ext. A1 to A6, apart from affidavit and notes of arguments. The report submitted by the Expert Commissioner appointed by the Commission at the instance of complainant (I.A 759/22), is marked Ext. C1. Proceedings against the opposite parties being ex-parte, no evidence produced on their part.

4) Deliberation of facts and evidence of the case

The Commission has very carefully examined the facts and evidence of the case. Ext. A1 is a copy of invoice No. HPWTCR/20-21/215 dated 08/06/2020 issued by the first opposite party in favour of the complainant towards the sale of a “laptop HP15 Da0414tu CND0120TTR”, receiving from her a sum of Rs. 34,500/- (Rupees thirty four thousand and five hundred only). Ext. A2 is print out of the email as well as whatsapp communication with the opposite parties. Ext. A3 comprises print out of the whatsapp communication. Ext. A4 comprises the second opposite party’s acceptance report with token no. 10010150 dated 24/06/2021, issued in favour of the complainant in respect of laptop in question and also a copy of cash receipt no. R8250 dated 01/07/2021 issued by the second opposite party in favour of the complainant receiving from her a sum of Rs. 850/- (Rupees eight hundred and fifty only) towards ‘laptop clinic service’. Ext. A5 and A6 comprise print out of call history details.

Ext. C1 is the report submitted by the expert commissioner appointed by the Commission.

5) Points to be deliberated:

- (i) Whether the alleged manufacturing defect is proved or not? Also whether the complainant is entitled to receive replacement of the laptop in question?
- (ii) Whether there is any deficiency in service or adoption of unfair

trade practice on the part of the opposite parties? Also whether the complainant is entitled to receive refund of the service charge she paid.

- (iii) Whether the complainant is entitled to receive any compensation from the part of the opposite parties? If so its quantum?
- (iv) Costs?

6) Point No.(i)

Ext. C1 report submitted by the expert Commissioner does not conclusively find any manufacturing defect in the laptop in question. In the absence of any evidence pertaining to the alleged manufacturing defect, the Commission is not in a position to consider the complainant's prayer for replacement of the laptop in question with a new one. The Hon'ble National Commission held the same view by its order dated 29/12/2023 in T&T Motors Ltd. & Anr Vs. Pawan Gupta.

Hence point no.1 is proved against the complainant.

7) Point No.(ii)

Ext. C1 report submitted by the Expert unambiguously affirms that the laptop in question suffers from the fault of 'undergoing automatic off'. One of the major allegations of the complainant is that the repeated attempts of the second opposite party to rectify the defects/ faults of the laptop, turned unproductive. And that she was charged with a sum of Rs. 850/- (Rupees eight hundred and fifty only), despite her having reported the fault of the laptop during the period of its warranty, itself. Ext. A2 print out of whatsapp communication reveals that the defects/faults of the laptop in question were reported with the opposite parties, as early as 23/05/2021, ie., within an year of its purchase, itself. Ext. A4 (acceptance report and cash receipt) issued by the second opposite party reveals that the second opposite party service centre had

collected from the complainant a charge of Rs. 850/- (Rupees eight hundred and fifty only), towards ‘laptop clinic service’, in spite of the complainant’s having reported the defects of the laptop during the period of its warranty itself. This act of the second opposite party is certainly an unfair trade practice, which at the same time constitutes deficiency in service on their part, as well.

The difficulties faced by the world at large, owing to the outbreak of Covid-19 pandemic need no elaboration and are known to all. The Honourable Apex Court had, by its interim order in March 2020 and again by order dated 23/09/2021, periodically provided extension of limitation and finally by its *judgement dated 10/01/2022 in Suomoto Writ Petition (C) No. 3/2020*, provided extension of limitation till 28/02/2022, as well. Under such circumstances where the honourable Supreme Court had granted exemption even for time limits mandatorily fixed for litigation of proceedings, the second opposite party ought to have provided the complainant with the services under warranty, given that the complainant had reported the fault of the laptop during the period of warranty itself. The first opposite party dealer ought to have productively coordinated the service requirements of the laptop in question, especially so in view of the fact that the complainant had brought the laptop initially to them. The first opposite party dealer does bear the responsibility to coordinate and help the complainant avail the hassle free service of the second opposite party service centre. A dealer cannot bear the attitude of considering the consumer as a mere ‘cash-cow’. A dealer is not a mere money collection centre whose duties and responsibilities extinguish, once the sale is accomplished. They do have the bounden duty to coordinate the activities of after-sale service in respect of the products that they sell. The first opposite party dealer is not seen having discharged these duties and responsibilities of theirs, in this regard. Therefore, in the case at hand, there is deficiency in service as well as adoption of unfair trade practice on the part of the first opposite party dealer, as well.

Moreover, both the opposite parties have not cared to file their written versions before the Commission, in spite of their having received the Commission notice to that effect. The opposite parties' conscious failure to file their written version amounts to admission of the allegations levelled against them by the complainant. The Honourable National Commission held the same view by its order dated 09/10/2017 in ***RP 579/2017 [2017 (4) CPR 590]***. Therefore, we are inclined to hold that there is deficiency in service as well as adoption of unfair trade practice on the part of both the opposite parties. Axiomatically, the complainant is entitled to receive refund of the sum of Rs. 850/- (Rupees eight hundred and fifty only) that was illegitimately collected by the second opposite party.

Point no. 2 is, thus, proved in favour of the complainant.

8) Point No. (iii) and (iv)

As elaborated supra, there is deficiency in service and adoption of unfair trade practice on the part of both the opposite parties. The consumer who purchased a laptop paying a handsome price of Rs. 34,500/- (Rupees thirty four thousand and five hundred only), would certainly be dissatisfied if it becomes faulty and unusable within a few months of its purchase, and more so while he or she was not provided with the services under warranty. In the case at hand, owing to the faulty performance of the laptop in question, the complainant, who is a student, certainly might have faced irreparable hardships pertaining to her academic activities which are normally time bound in nature. The complainant, in the case at hand, might certainly have, as claimed, undergone agony and hardship, owing to the misdeeds on the part of the opposite parties. The opposite parties have necessarily to compensate the complainant. We are of the considered view that the complainant is entitled to receive from the opposite parties a sum of Rs. 20,000/- (Rupees twenty thousand only) towards

compensation for the agony and hardship she underwent and a sum of Rs. 7,500/- (Rupees seven thousand and five hundred only) towards costs.

In the result, the complaint is partly allowed, as follows,

- 1) **The second opposite party is directed**, to pay the complainant a sum of Rs. 850/- (Rupees eight hundred and fifty only) towards refund of the service charge that was illegitimately collected from the complainant along with 9% interest per annum from the date of filing of the complaint till the date of realization.
- 2) **The first and the second opposite parties are directed** to jointly and severally pay the complainant:
 - a) a sum of Rs. 20,000/- (Rupees twenty thousand only) towards compensation for the agony and hardship that she underwent, and
 - b) a sum of Rs. 7,500/- (Rupees seven thousand and five hundred only) towards costs,

both with 9% interest per annum from the date of filing of the complaint till the date of realization. The opposite parties, concerned, shall comply with the above directions within 45 days of receipt of a copy of this order.

Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in the open Commission this the 28th day of October 2024.

Sd/-
Sreeja S.
Member

Sd/-
Ram Mohan R
Member

Sd/-
C. T. Sabu
President

Appendix

Complainant's Exhibits :

Ext.A1 is a copy of invoice no. HPWTCR/20-21/215 dated 08/06/2020 issued by the first opposite party in favour of the complainant towards the sale of a "laptop HP15 Da0414tu CND0120TTR", receiving from her a sum of Rs. 34,500/- (Rupees thirty four thousand and five hundred only).

Ext.A2 is print out of the email as well as whatsapp communication with the opposite parties.

Ext.A3 comprises print out of the whatsapp communication.

Ext.A4 comprises the second opposite party's acceptance report with token no. 10010150 dated 24/06/2021, issued in favour of the complainant in respect of laptop in question and also a copy of cash receipt no. R8250 dated 01/07/2021 issued by the second opposite party in favour of the complainant receiving from her a sum of Rs. 850/- (Rupees eight hundred and fifty only) towards 'laptop clinic service'.

Ext.A5 and A6 comprise print out of call history details.

Ext. C1: Expert Commissioner Report

Id/-
Ram Mohan R
Member

//True copy//

Assistant Registrar

Auk

//True copy//

Assistant Registrar

//True copy//

Assistant Registrar