

**BEFORE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, KULLU (H.P.)**

Complaint No.: 01/2021
Date of Institution: 24.02.2021
Decided on : 22.12.2023

Shri Rajiv Sharma son of Shri Raghu Nath Sharma,
R/O White House Mohal, Behind Indian Oil Depot
Mohal, Tehsil and District Kullu, HP.

.....Complainant

Versus

1. Branch Manager, HDFC Life, its Office Nest Hotel
2nd Floor Near Bus Stand, Sarvari Bazar, Kullu, HP.
2. Branch Manager, HDFC Bank Ltd., its Office Beasa
Mour Kullu, Akhara Bazar, Kullu, HP.

.....Opposite parties

**Complaint under Section 12 of the
Consumer Protection Act, 1986.**

Coram:

Sh.Purender Vaidya, President.
Ms. Pooja Gupta, Member.

For the complainant:	Sh. Mohinder Thakur, Advocate.
For the opposite party	
No.1 :	Sh. Shamsheer Thakur, Advocate.
For the opposite party	
No.2 :	Already Ex-parte.

ORDER:

This complaint under Section 12 of the Consumer Protection Act, 1986 has been filed by one Shri Rajiv Sharma (hereinafter referred to as the complainant) against the opposite parties stating that on the representation and assurance of opposite parties he purchased insurance policy namely, HDFC Life Pension Super Plus Policy bearing No.17826855 and at that time, the representative of the opposite parties told the complainant that he would get the full value of the investment after the lock in period of five years. The complainant paid the premium of said policy well in time as per scheduled dates. The complainant further stated that due to Corona Virus he faced financial liabilities. So, he approached the

opposite parties for completion of formalities after lock in period of five years, but they refused and told the complainant that he would only get pension benefit and not the full value of the policy. It has been further stated by the complainant that on 18.08.2015 he had also purchased the policy under the same scheme bearing policy No.17800344 in the name of his wife Smt. Shradha Sharma from the opposite parties and due to financial liabilities faced by him on account of Corona Virus, in the month of August, 2020, he approached the opposite parties for release of full value of the said policy and the opposite parties had refunded the full value of the said policy of his wife on 04.08.2020. Therefore, the complainant requested the opposite parties to also release the full value of his policy, but the opposite parties failed to pay the full value of policy to the complainant. A legal notice was also served upon the opposite parties, but in vain. Hence, complainant alleged deficiency in service on the part of the opposite parties. Consequently, the present complaint has been filed with the prayer that the opposite parties be directed to pay damages to the tune of ₹5,00,000/- to the complainant for causing mental harassment and agony and for selling the policy by misrepresentation. The complainant also prayed for litigation charges.

2. The opposite parties No.1 & 2 were served, but did not put in appearance. Hence, both the opposite parties were proceeded against ex-parte. Thereafter, vide order dated 25.08.2021, the ex-parte order dated 25.03.2021 passed against opposite party No.1 was set aside.

3. The opposite party No.1 contested the complaint by filing a joint reply for opposite parties No.1 & 2, wherein, preliminary objections as to false nature of complaint, cause of action, maintainability and complex nature of dispute, which could be decided by the Civil Court, were raised. On merits, it was not disputed that the complainant purchased two policies for himself as well as for his wife from the opposite parties. It has been further stated that the complainant submitted the proposal form. After

having understood all the terms and conditions of the policy he did not cancel the policy in question within free look period of 15 days from the date of receipt of policy documents. The complainant was made aware of the free look period vide communication dated 22.08.2015. As per the terms and conditions of the policy, the complainant was having option to withdraw maximum 1/3rd of the notional cash value and the rest would be converted into the annuities. Alternatively, the complainant was having option to use the entire notional cash value to buy annuities and he was having no option to withdraw the cash value. In case of request for surrender, at least 2/3rd of the amount from the proceeds of the policy fund must be used to purchase the annuity and only a maximum of 1/3rd of the fund amount can be withdrawn. These conditions were made aware to the complainant through communication dated 02.07.2020 and 16.07.2020. The complainant surrendered the policy in question after completion of lock in period of five years, whereas, the policy term is fifteen years. Therefore, the complainant is entitled only for surrender value. The opposite parties further stated that considering the financial problems of the complainant during Covid-19 corona virus pandemic, the wife of complainant was appropriately compensated while dealing with her policy. So, opposite parties denied any deficiency in service on their part. Hence, the opposite parties prayed for dismissal of the complaint.

4. No rejoinder has been preferred.

5. Both the parties have led evidence in support of their contentions.

6. We have heard learned counsel for the parties and have gone through the record of the case carefully.

7. After due consideration, we are of the opinion that the complainant is entitled for the relief but not as prayed for by him, as per reasons to be recorded hereinafter.

8. There is no dispute that the complainant purchased insurance policy namely, HDFC Life Pension Super Plus Policy bearing No.17826855 from the opposite parties in the year 2015 and

the same policy was also purchased by him in the name of his wife Smt. Shradha Sharma. The terms and conditions of the policy in question are not in dispute. The only plea of the complainant is that due to financial problem faced by him on account of Corona virus pandemic, he was unable to continue with the policy. So, after free lock in period of five years he wanted to surrender the same and he requested the opposite parties to pay him the full value of the policy as he was told by the opposite parties that after free lock in period of five years he could get the full value of the policy. In this regard, the complainant has stated that the opposite parties had paid full value of the policy of his wife to her. All these facts have been deposed by the complainant in his affidavit, which has been filed in support of his contentions. He also filed in evidence the relevant record of the policy and correspondence between the parties vide Annexure-1 to Annexure-3. He has also filed on record the copies of legal notices served upon the opposite parties Annexure-4 and Annexure-6 vide registered postal receipts Annexure-5 and Annexure-7.

9. On the other hand, on behalf of opposite parties, there is affidavit of one Shri Gurpreet Singh, Dy. Manager (Legal), wherein he has deposed all the terms and conditions of the policy and stated that as per said terms and conditions, the complainant was not entitled to get the full value of the policy in question after five years and he would get only the surrender value of policy. The documents of the policy Annexure-R1 and Annexure-R2 also filed in evidence by the opposite parties.

10. No doubt, the parties are bound by the terms and conditions of the policy in question and there are no specific terms and conditions in the policy that after five years, the complainant would get full value of policy in question, but at the same time, we have to consider the fact that the same policy was purchased by the complainant in the name of his wife Smt. Shradha Sharma and opposite parties paid her the value of policy after completion of five

years taking into account the financial problem of the complainant, which he suffered due to Corona virus.

11. In Para 4 of the reply, the opposite parties have specifically admitted this fact that the wife of complainant has appropriately compensated while dealing with her policy considering the financial problem of the complainant during the Covid-19 Corona virus pandemic. Here, it is relevant to state that the complainant has categorically stated in the complaint and deposed in his affidavit that he not only purchased the policy in question in his name, but also purchased the same policy in the name of his wife Smt. Shradha Sharma. That means, it is complainant, who made the payment of premium of both the policies. The opposite parties have not disputed the financial problem of the complainant during Covid-19 Corona virus pandemic. If the complainant has faced financial problem to continue with the policy of his wife then we failed to understand why the same financial problem of the complainant was not considered by the opposite parties while taking into account the request of the complainant to discontinue his policy after five years of free lock in period. The opposite parties cannot be allowed to have pick and choose policy. If they have given concession to the wife of the complainant taking into account the financial condition of the complainant then on the basis of parity and equity complainant is also entitled to get the same concession. Certainly, the opposite parties are estopped by their act and conduct as it is in the knowledge of the opposite parties that the complainant had purchased both the policies i.e. one for himself and another for his wife. The complainant has filed in evidence the copies of policy of his wife including terms and conditions and his policy including terms and conditions vide Annexure-CX. The perusal of the said policies is revealing that both the policies are same and terms and conditions are also same.

12. So, in the light of our aforesaid discussion, the opposite parties are not justified in rejecting the prayer of the complainant.

Hence, there is unfair trade practice and deficiency in service on the part of opposite party No.1.

13. Consequently, for the aforesaid reasons, the present complaint is allowed to the effect that opposite party No.1 is directed to pay the value of policy of the complainant to him within 45 days from this order strictly as per the case of his wife Smt. Shradha Sharma. Since the complainant was forced to file this complaint, therefore, the opposite party No.1 is further directed to pay damages to the tune of ₹10,000/- on account of mental harassment and agony and litigation cost to the tune of ₹5,000/- to the complainant. With these observations, the present complaint stands disposed of.

14. Copy of this order be supplied to the parties free of cost as per Rules.

15. File, after due completion be consigned to the Record Room.

Announced on this the 22nd day of December, 2023.

(Purender Vaidya)
President

(Pooja Gupta) Member

Ramesh