

(1993) 07 NCDRC CK 0041

In the National Consumer Disputes Redressal Commission

GURMEET KAUR

APPELLANT

Vs

REGIONAL OFFICER, T.T.LIMITED

RESPONDENT

Date of Decision : 28-07-1993

Acts Referred:

Citation : 1993 3 CPJ 1650 : 1993 3 CPR 402 : 1994 1 CPC 220

Hon'ble Judges : S.S.Dewan , R.L.Gupta J.

Final Decision : Complaint dismissed

Judgement

1. DEFECTIVE goods and deficiency of service are the grievances of the complainant.

2. IT has been averred in the complaint that on 23.11,1992, the complainant was working in the kitchen since morning and as usual the main cooking gadget 5 litres Prestige Pressure Cooker was being used. At about 11.15 a.m., the Pressure Cooker made a strange accidental bursting causing severe injuries to the complainant's head, face, arms and other parts of the body. The impact of the blast was so great that the complainant who was standing in the vicinity of the kitchen became unconscious. She was rushed to the Command Hospital, Chandigarh where she was given the necessary medical treatment. The case of the complainant is that the accident of the Pressure Cooker had evidently occurred due to the defective material used while manufacturing the same. The information regarding the said accident was conveyed to the service centre at Chandigarh who, in turn, passed on that information to Sh. Ravi Handa, Sales Representative of respondent No. 1. The matter was further reported to respondent No. 2 who replied that Sh. Ravi Handa would collect the damaged Pressure Cooker on 29.12.1992 for proper investigation so that the defects were removed in future to safeguard the human lives and the defective lot was withdrawn from the market. IT is alleged that Sh. Ravi Handa again visited the house of the complainant on 21.12.1992 and handed over a new Prestige Cooker to her. Having failed to receive any relief on making representation to the respondents, the present complaint was preferred before this Commission

claiming Rs.1,74,000/- as compensation on the grounds as mentioned in paragraph No. 14 of the complaint. On notice being issued, the respondents have filed their written statement. The respondents have raised a preliminary objection that the Prestige Pressure Cooker was purchased by the husband of the complainant in the year 1979 from the Canteen Stores Department, Bangalore and the Pressure Cooker must have been got repaired a number of times but these material facts had not been mentioned in the complaint and therefore, she was not at all entitled to any relief from this Commission. On merits, it has been averred that the value of the Pressure Cooker in question was intact in its lid, and on analysis conducted by the Laboratory, it was found that the rubber safety plug on that lid was spurious which was not manufactured by the respondents. The respondent's case is that the rubber safety plug which was manufactured by the respondents was fusible alloy pintle, which fuses at a predetermined pressure/temperature and allows the pressure to be released in the event of the blockade of the valve. It is alleged that the safety plug in the lid of the Pressure Cooker of the complainant contained brass pintle. The fusible temperature of the brass is far greater than that of the alloy used in the genuine safety plug and that was the reason that the safety plug of the complainant's Pressure Cooker remained intact even though the cooker itself got damaged. The respondents have denied the allegations of the complainant that they used defective material in the manufacture of Prestige Pressure Cooker. It is alleged that the respondent's cooker having been used for a period of about 14 years without any complaint, goes to show that the strong and good material had been used in the manufacture of the cooker in question. It is further alleged that on 29.11.1992, the cooker was taken away for investigation and on 21.12.1992, the service representative called on the complainant and handed over a new 5 litres Prestige Pressure Cooker to the complainant on humanitarian consideration and as a measure of goodwill. The respondents' case is that the brochures are handed over to every purchaser of the Prestige Cooker in which, amongst other important directions, it is clearly mentioned therein that the cooker should be got checked at least once a year from the service centres and that the complainant had not complied with that direction. The other allegations of the complainant have been stoutly denied by the respondents. In the rejoinder filed by the complainant all the allegations have been reiterated as given by her in the complaint. In support of her case, the complainant put in her own affidavit and certain additional documents to which a detailed reference is unnecessary.

At the very outset, we must necessarily notice the pointed and inherent stand of Sh. Anand Swaroop, he learned Counsel for the respondents that the complainant by her suspicious conduct has rendered herself ineligible for relief within the consumer jurisdiction. It is his case that there was a deliberate attempt on the part of the complainant to suppress the material facts in the claim filed by her before the Commission. In particular, it is pointed out that during the investigation it was found out that the Prestige Pressure Cooker in question was purchased by the husband of the complainant about 14 years back

from the canteen, Stores Department at Bangalore where her husband was then posted and this cooker must have been got repaired a number of times but these material facts were deliberately suppressed by the complainant by not mentioning them in the complaint. The firm stand of the respondents is that the very fact that the Prestige Pressure Cooker in question had been used by the complainant for a long period of 14 years without any complaint, shows that a strong and good material had been used while manufacturing the same. We are, therefore, inclined to hold that there is considerable merit in the aforesaid stance of the learned Counsel for the respondents. The rule of our jurisprudence has long been that those seeking relief in equitable or extraordinary jurisdiction (other than ordinary and formal one at law) must do so with utmost candour and without any covert or overt suppression of facts or making of any misleading averments. The complainant has deliberately suppressed the aforesaid material fact of having purchased the cooker about 14 years back and it has necessarily to be held that a consumer knowing at the door of redressal agencies under the Act for relief in a consumer dispute, must do so with clean hands.

3. SH. K.M.S. Bedi, the learned Counsel for the complainant has strenuously urged that the alleged incident of the Pressure Cooker was due to the weak and defective material used by the respondents while manufacturing it. To buttress his argument, he has referred us to the averments made in the complaint that the lid of the Pressure Cooker was blown to the north side of the kitchen in a bulging state along with a valve; that the container of the Pressure Cooker was blown from the seat of the cooking range and was badly dented due to its striking with the wall of the kitchen and that the valve of the Pressure Cooker remained intact in the lid of the Pressure Cooker. From these averments of the complainant, the learned Counsel contended that the material of the Prestige Pressure Cooker was defective and spurious whereas its quality and standard were required to be maintained by the respondents under the law. On behalf of the respondents, it has been forcefully and frontally argued that the very foundation of the charge of negligence in using the defective material for the manufacture of Prestige Pressure Cooker is altogether missing in this case. It is pointed out that there is not even a tattle of evidence to indicate that defective material was used in the manufacture of Pressure Cooker. There is obvious merit in the stand and the submission aforesaid. It is somewhat elementary that in order to succeed, the complainant herein has to establish that the material used in the manufacture of Pressure Cooker was defective by the production of at least a test report from a laboratory. Barring her own bald assertions in the complaint and the somewhat self-serving affidavit in support thereof, there is nothing else to establish that the material used by the respondents was defective. Indeed all the circumstantial testimony is to the contrary.

4. IN the light of the above, it has to be inevitably concluded that there is no proof that the material used in the Prestige Pressure Cooker by the complainant was defective or sub-standard at the material time. Once this finding has been arrived at, it is manifest that the complaint cannot possibly succeed. The

unfortunate complainant is faced with an unsurpassable hurdle of a total lack of evidence on the issue which is crucial and form the core of the matter. Though one may have considerable sympathy with the complainant, the present case has to be necessarily dismissed. We would, however, not wish to burden the consumer-complainant with any costs. Complaint dismissed.