

(2004) 05 NCDRC CK 0060

In the National Consumer Disputes Redressal Commission

JAFAR GENERATORS

APPELLANT

Vs

POWERFUL ELECTRONICS

RESPONDENT

Date of Decision : 21-05-2004

Acts Referred:

Citation : 2005 2 CPJ 364

Hon'ble Judges : A.Raman , R.Vanaroja J.

Final Decision : Appeal allowed

Judgement

1. THE complainant's case in short is as follows : THE complainant purchased a battery from the 1st opposite party. THE guarantee period for the battery was one year. THE battery so purchased on 5.11.1999 became defective and it was handed over to the 1st opposite party for rectification and the two other batteries purchased also became defective within the period of guarantee. In spite of several requests to the opposite parties, they have failed to come and attend to the repair and set right the defect and on account of the same, complainant has been put to irreparable loss and hence the complaint.

2. THE 1st opposite party contended that there was only one battery purchased which was handed over to them for repairs and it was repaired and handed back to the complainant. But with regard to the other two batteries mentioned, they were not entrusted to them. THE complainant did not purchase any battery on 15.12.2000 nor any battery was purchased on 5.11.1999. THEREfore, there is no deficiency in service on the part of the 1st opposite party. Moreover, even according to the complainant, the batteries were purchased not for the purpose of using it in the motor vehicle, but for the purpose of his factory and, therefore, the complaint is not maintainable. The lower Forum admitted the complaint and directed the 1st opposite party to refund the sum of Rs. 2,768/- and pay a sum of Rs. 2,000/- towards compensation for mental agony along with a sum of Rs. 500/- towards costs. Hence the present appeal.

There is no appeal with regard to the other two batteries regarding which the case of the complainant was turned down by the lower Forum. The complaint

now relates only to the battery bearing No. 5636 valued at Rs. 2,768/- claimed to have been purchased on 5.11.1999. The 1st opposite party admits that the battery was handed over for repairs to them but they carried out the repairs and handed over it to the complainant. Ex. B-1 is the battery job card which shows that the battery bearing Sl. No. 5636 that belonged to Powerful Electronics was received for repairs on 28.6.2000 and the delivery date is mentioned as 27.11.2000. Therefore, the job card clearly establishes that the battery was received for repairs from the complainant. The complainant has produced Ex. A-1 bill for purchase of two batteries of the make Standard Furukawa lead batteries. But the bill mentions the Nos. as 02791 and 09217. The bill is dated 7.3.2000. The complainant claims to have purchased the batteries bearing No. 5686 on 5.11.1999. For this purchase, the necessary bill is not produced. But the 1st opposite party have admitted in their version that the battery No. 5636 was purchased from them. They further admit that the battery purchased on 5.11.1999 bearing No. 5636 alone was handed over to them and it was repaired and taken back by him on 27.11.2000. From the job card we find that it was received by the 1st opposite party on 28.6.2000 and the delivery has been taken by the complainant on 27.11.2000. Moreover, Ex. B-2 warranty card relating to Standard Furunkawa Automotive battery mentions that the warranty period for (1) SHD800 / SHD1200 / SHD1500/ SHD 1600 Batteries fitted on commercial vehicles is 18 months; (2) Batteries for cars, jeeps, trawlers, genset starting and other vehicular applications is 12 months; (3) Batteries fitted on taxis/three wheelers is 9 months; (4) Batteries used on other non-vehicular application is 6 months; and (5) NS40CC and 38B20RCC (Calci Charge) batteries fitted on Marutis is 30 months. The complainant has stated clearly that he was given a guarantee car mentioning the period as one year. But the guarantee card is not produced. The complainant has not produced any material to show whether the battery bearing No. 5636 is SHD 800 or SHD 1200 or SHD 1500 or SHD 1600. Thus, he has not produced the bill relating to the said batteries. Though he is able to produce the bill for the alleged purchased of two other batteries under Ex. A-1, those purchases have not been made on 7.3.2000, the complainant has not chosen to produce the particular bills either to prove the date of purchase or the type of battery purchased. Nor he has chosen to produce the warranty card, which is admitted by him to have been handed over to him at the time of the purchase. He admits that the said battery No. 5636 became defective and he handed over them for repairs to the opposite party on 28.6.2000. Nowhere in the complaint he has chosen to allege for what purpose the battery was purchased by him. He has simply stated that he is not able to do the work that could be done with the help of the battery and he was not able to do the professional service to his customers with the help of the battery. Therefore, in the absence of materials and specific allegation, it is not possible to presume the reason for the purchase and how the battery was utilized by the complainant. We do not know whether the batteries were fitted on taxis, two or three wheelers. We also have nothing to show whether the batteries were used for any other non-vehicular applications. It is not the complainant's case that the batteries are used for cars,

jeeps, trawlers, genset starting and other vehicular applications. Therefore, in the absence of any material, we do not know the class of battery or the use of battery or whether it falls under Clauses (3) or (4) of the warranty. Therefore, in such circumstances, there is no satisfactory material produced to show that there is any deficiency in service. Even otherwise, the job card produced by the 1st opposite party shows that the battery was repaired and handed over back to the complainant in the month of November, 2000. Thus we do not have sufficient or satisfactory materials to uphold the verdict of the lower Forum. Consequently, the order of the lower Forum has to be set aside.

3. IN the result, this appeal is allowed with cost of Rs. 250/-. The order passed by the Lower Forum will stand set aside. The complaint will stand dismissed, but without costs. Appeal allowed with costs.