

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.18927 of 2015

Date of Decision: 11.09.2015

Tata Teleservices Ltd.

. . . .Petitioner

Versus

Kulwinder Singh and another

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.M.S. Bedi, Senior Advocate, with
Mr.G.S. Bawa, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner is aggrieved against the order dated 8.7.2015 passed by the Permanent Lok Adalat for Public Utility Services, Rupnagar (for short 'the PLA').

The solitary argument raised by learned counsel for the petitioner is that if the party has not reached at compromise, the PLA should have stayed away from deciding the dispute on merits. It is also submitted that though there are some zimini orders passed by the PLA but there was no compromise or settlement between the parties.

In support of his submission, learned counsel for the petitioner has relied upon two decisions of this Court rendered in **"Uttar Haryana Bijli Vitran Nigam and another Vs. Kusum Jain"** 2015(3) RCR (Civil) 690 and **"Reliance General Insurance Company Limited Vs. Vijay Kumar and another"** 2013(5) RCR (Civil) 226.

I have heard learned counsel for the petitioner and perused the record.

The facts of the case are not required to be given in detail except the zimini orders passed by the Permanent Lok Adalat, which are reproduced as under: -

*“Present: - Sh. Kulwinder Singh
applicant in person.*

*Ms.Amandeep Kaur,
Assistant Manager (Legal)
with counsel Ms.Manpreet
Kaur, Advocate.*

*In this case certain remarks
have been recorded by Sh. D.S.
Laungia, Member in back date on
11.2.2015 which are unwarranted and
false and a result of decayed mentality.
In fact a person who is himself corrupt
see's his own reflection in everybody
else, due to which these remarks have
arisen. He appears to have mastered
the art of telling lie.*

*Evidence has been closed by
the parties. We have gone through the
application, reply filed by the
respondent and evidence produced by
the parties and we are of the opinion
that there exists an element of
settlement in these proceedings which
may be acceptable to the parties. The
terms of a possible settlement have
been framed as below and the parties
have been told that if they reach an
agreement they shall sign the
settlement agreement on the basis of
which the award would be passed by*

US: -

VIVEK PAHWA
2015.09.16 10:06
I attest to the accuracy and
authenticity of this document

1. Whether the respondent is not providing proper coverage/service to the applicant at this house. If so to what effect?
2. Whether the applicant is entitled for compensation of Rs.5 lakh for harassment and mental agony and Rs.55000/- as litigation and harassment charges?

A copy of the terms of possible settlement mentioned above have been given to the parties for their observation. Efforts made for reconciliation. The parties request for some more time. Now to come up on 20.3.2015 for reconciliation.

	Sd/-
(D.S. Laungia)	(Jagroop Singh)
Member	Chairman
13.03.2015	13.03.2015"

"Present: - Sh. Kulwinder Singh
applicant in person.

Ms.Amandeep Kaur,
Assistant Manager (Legal)
with counsel Ms.Manpreet
Kaur, Advocate counsel for
the respondent.

Efforts made for
reconciliation but some more time is
needed for the same. Come up on
30.3.2015 for further reconciliation.

	Sd/-	Sd/-
(D.S. Laungia)	(H.S. Walia)	(Jagroop Singh)
Member	Member	Chairman
20.03.2015	20.03.2015	20.03.2015"

VIVEK PAHWA
2015.09.16 10:06
I attest to the accuracy and
authenticity of this document

“Present: - Sh. G.S. Thing, Advocate, counsel for the applicant.

*Ms.Amandeep Kaur,
Assistant Manager (Legal)
with counsel Ms.Manpreet
Kaur, Advocate counsel for
the respondent.*

*Efforts made for
reconciliation but some more time is
needed for the same. Come up on
15.4.2015 for further reconciliation.*

<i>(not present)</i>	<i>Sd/-</i>	<i>Sd/-</i>
<i>(D.S. Laungia)</i>	<i>(H.S. Walia)</i>	<i>(Jagroop Singh)</i>
<i>Member</i>	<i>Member</i>	<i>Chairman</i>
<i>30.03.2015</i>	<i>30.03.2015</i>	<i>30.03.2015”</i>

“Present: - None.

*As per order dated
13.04.2015 of Member Secretary,
Punjab Legal Services Authority,
Chandigarh, all the cases of Permanent
Lok Adalat (Public Utility Services),
Mohali shall be taken up at Ropar.*

*Case taken up in the
Permanent Lok Adalat (Public Utility
Services) Ropar. Come up on 30.4.2015
for reconciliation.*

<i>Sd/-</i>	<i>Sd/-</i>	<i>Sd/-</i>
<i>(Zora Singh)</i>	<i>(H.S. Walia)</i>	<i>(Jagroop Singh)</i>
<i>Member</i>	<i>Member</i>	<i>Chairman</i>
<i>15.04.2015</i>	<i>15.04.2015</i>	<i>15.04.2015”</i>

“Present: - None for the applicant.

*Ms.Amandeep Kaur,
Assistant Manager (Legal)
with counsel Ms.Manpreet
Kaur, Advocate counsel for
the respondent.*

Today none has come present on behalf of the applicant to participate in reconciliation proceedings. Come up on 13.5.2015 for reconciliation.

Sd/- (Zora Singh) Member 30.04.2015	Sd/- (Jagroop Singh) Chairman 30.04.2015"
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"Present: - Sh. Kulwinder Singh applicant in person.

*Ms.Amandeep Kaur,
Assistant Manager (Legal)
with counsel Ms.Manpreet
Kaur, Advocate counsel for
the respondent.*

Efforts made for reconciliation but some more time is needed for the same. Come up on 26.05.2015 for further reconciliation.

Sd/- (Zora Singh) Member 13.05.2015	Sd/- (Jagroop Singh) Chairman 13.05.2015"
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"Present: - Sh. Kulwinder Singh applicant in person.

*Ms.Amandeep Kaur,
Assistant Manager (Legal)
with counsel Ms.Manpreet
Kaur, Advocate*

Outgoing call details of the applicant have been produced by the respondent for the period of 03.10.2014 to 02.12.2014 and 03.02.2015 to 02.05.2015. The production of the calls has been objected to by the applicant alleging that his personal details cannot be made public like this without his permission.

Efforts made for reconciliation. The same did not succeed. We are, therefore, of the opinion that the application should be decided on merits as provided under sub Section (8) of the Legal Services Authorities Act.

The case is reserved for orders.

<i>Sd/-</i>	<i>Sd/-</i>	<i>Sd/-</i>
<i>(Zora Singh)</i>	<i>(H.S. Walia)</i>	<i>(Jagroop Singh)</i>
<i>Member</i>	<i>Member</i>	<i>Chairman</i>
<i>26.05.2015</i>	<i>26.05.2015</i>	<i>26.05.2015</i>

It would also be relevant to refer to Section 22C of the Legal Services Authorities Act, 1987 [for short 'the Act'], which read as under: -

“22C. Cognizance of cases by Permanent Lok Adalat –

(1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute:

Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:

Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees.

Provided also that the Central Government, may, by notification, increase the limit of ten lakh rupees

specified in the second proviso in consultation with the Central Authority.

(2) After an application is made under subsection (1) to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.

(3) Where an application is made to a Permanent Lok Adalat under subsection (1) it:

(a) Shall direct each party to the application to file before it a written statement, stating therein the facts and nature of dispute under the application, points or issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the application;

(b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;

(c) shall communicate any document or statement received by it from any party to the application to the other party, to

enable such other party to present reply thereto.

(4) When statement, additional statement and reply, if any, have been filed under subsection (3), to the satisfaction of the Permanent Lok Adalat, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstances of the dispute.

(5) The Permanent Lok Adalat shall, during conduct of conciliation proceedings under sub-section (4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.

(6) It shall be the duty of every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.

(7) When a Permanent Lok Adalat, in the aforesaid conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the parties, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement of the

dispute, they shall sign the settlement agreement and the Permanent Lok Adalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned.

(8) Where the parties fail to reach at an agreement under sub-section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute.”

It is argued by learned counsel for the petitioner that the PLA has straightway decided the case on merit, invoking its power under Section 22C(8) of the Act without exhausting Section 22C(4) to (7) of the Act.

From the perusal of record, I have found that on 13.3.2015, in terms of Section 22C(7) of the Act, the reference was made by the PLA to the parties concerned to resolve their dispute through amicable settlement and, therefore, the case was adjourned many times in which it is recorded by the Court that efforts were made for reconciliation, the parties required more time for the same and ultimately on 26.5.2015, the PLA had recorded that the efforts made for reconciliation could not succeed and, therefore, they were of the opinion that the application filed by the petitioner should be decided on merits in terms of Section 22C(8) of the Act. Accordingly, thereafter the matter was decided on merits with certain directions which are not to the liking of the petitioner and hence, the present petition has been filed.

Insofar as the reliance of learned counsel for the petitioner in both the cases i.e. **Uttar Haryana Bijli Vitran Nigam**

and another (Supra) and **Reliance General Insurance Company Limited (Supra)**, is concerned, I have found that in those cases, the Court had straightway resorted to Section 22C(8) of the Act without following the procedure provided under sub Sections (4) to (7) of the Act. There was no dispute with the proposition of law laid down in the aforesaid two cases that it is the duty of the PLA to first try to amicably settle the dispute between the parties by way of conciliation and in case it is found that the parties do not reach to a compromise, the PLA, if there is no offence involved, can decide the dispute on merits under Section 22C(8) of the Act and that is what exactly has been done by the PLA. It is otherwise also held by the Supreme Court in the case of **“State of Maharashtra Vs. Ramdas Shrinivas Nayak & Anr.”** AIR 1982 SC 1249, that the record of the Court has a sanctity attached to it and can be disputed only before the same Court, who has passed the zimini orders that too on the basis of affidavit. In case, the PLA has wrongly passed the zimini orders, the petitioner should have approached the PLA at that time when the zimini orders were being passed but now they cannot make any application.

In view thereof, I do not find any merit in the present petition.

Dismissed.

11.09.2015
Vivek

(RAKESH KUMAR JAIN)
JUDGE