

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CM No.2191 of 2015 in/and
CWP No.3507 of 2002
Date of Decision: 03.05.2016**

State of Punjab and others

... Petitioners

Versus

Ajmer Singh and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vaibhav Sharma, DAG, Punjab.

Mr. Amit Chopra, Advocate,
for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

CM No.2191 of 2015

The application is allowed as prayed.

With the consent of both counsel the case is taken on board today itself for final disposal.

Main Case

1. The challenge in this petition is to the award dated March 27, 2001 passed by the learned Lok Adalat-1 constituted under the Legal Services Authority Act, 1987. The petition has been filed by the State of Punjab praying for setting aside of the award on mainly three grounds. The first is that when the matter was heard by the Lok Adalat-1 the then Deputy Director Agriculture exceeded his brief and admitted to a mistake committed by the Government [explained below] which deserved to be

rectified. The second ground of challenge is that the impugned award of the Labour Court involves grave financial implications and the matter of pay scales should have been left to be decided by the Third Pay Commission. Thirdly, the Department of Finance, Government of Punjab was the nodal agency in the matter of prescription of pay scales of the petitioning Grading Assistants claiming parity of pay scales granted to other categories of employees, namely, Agricultural Sub Inspector, Compost Inspector and Horticulture Supervisor running with effect from January 01, 1978 to October 19, 1992 whereby the petitioners grieved they were denied their rightful claim to the pay scale of Rs.450-800. This was at the stage of the Punjab Second Pay Commission. When the impugned order was passed the Finance Department was not effectively heard by the Lok Adalat-1 on the merits of the claim and the interest of the State was bartered away by the statement made by the then Deputy Director Agriculture beyond instructions on mere *ipse dixit* while explaining Annex P-5 attached with the petition before the Lok Adalat-I in his personal way which was not authorised. Therefore, the decision of the Lok Adalat-1 was not an informed one on the considered stand of the State since the entire picture was not brought to the notice of the Lok Adalat-1. It is not disputed that the Department of Finance, Punjab was a party to the proceedings.

2. There can be no doubt that the fulcrum of the case turned mostly on what the Deputy Director, Agriculture said or did before the Lok Adalat-1. It is common ground that the Third Punjab Pay Commission recommended the same scale of pay for Grading Assistants as approved for Agricultural Sub Inspectors etc. separating the first set with the rest of the

employees in question. It was on these premises that the Lok Adalat-1 by its order dated March 27, 2001 granted the petitioners the pay scale of Rs.450-800 as granted to other ASIs, Compost Inspectors/Horticulture Supervisors when placing them in different serial numbers 98 and 99 in the enumeration in the revised pay rules.

3. On August 21, 2002 the Division Bench admitted the case and stayed the operation of the order dated March 27, 2001 passed by the Lok Adalat-1. The Stay has continued to operate which has brought the respondents to file CM No.2191 of 2015 praying for early hearing of the petition so that their rights could be adjudicated before the cause loses meaning.

4. Heard Mr. Vaibhav Sharma, DAG, Punjab for the petitioning State and Mr. Amit Chopra, learned counsel for the respondents.

5. The State of Punjab prays for setting aside of the order of the Lok Adalat-1 and quite interestingly so do the respondents. Both parties agree to the setting aside of the order dated March 27, 2001 passed in CWP No.6205 of 1986 against which the present petition has been filed by the State of Punjab. In this manner, both the parties are *ad idem* that the impugned order deserves to be nullified. The resultant effect would be that the present petition would be allowed and CWP No.6205 of 1986 would be restored to its original pending position. If this course is adopted the petitioning State would have its full say on the merits of the case in CWP No.6205 of 1986 and per contra respondents and the rights and liabilities of the parties determined in a wholesome manner so that the controversy is set at rest leaving parties to seek their further remedies, if advised.

6. The State may not be incorrect in its submission that the then Deputy Director, Agriculture scuttled the case of the respondent-State before the Lok Adalat-I by overstepping his authority in making a statement before the Court that a mistake was committed by the State which deserved to be corrected. Moreover, there can be no manner of doubt that the dispute with respect to pay scales settled by the impugned award involves huge financial implications and thus it can be said that the Lok Adalat-1 exceeded its jurisdiction conferred by the Act under which it was constituted in making the impugned award. The State of Punjab did not consent to the disposal of CWP No.6205 of 1986 in the terms set out therein and, therefore, the impugned order is beyond jurisdiction of the Lok Adalat-1.

7. In view of the position explained above, the prayers of both the State of Punjab and the respondents are accepted as fair and just since both are aggrieved in their own ways. In the considered opinion of the Court the ends of justice would be served if the impugned award is set aside and CWP No.6205 of 1986 is restored for hearing on the merits of the *lis*.

8. Accordingly, the impugned award is set aside by consent and CWP No.6205 of 1986 is restored to its original number. Since the matter is respecting fixation of pay scale and is pending in dispute for over three decades the request of the parties is acceded to that the restored CWP No.6205 of 1986 deserves to be taken up for final disposal on merits within reasonable time. It is, therefore, directed that CWP No.6205 of 1986 be set down for hearing on July 11, 2016 for final disposal on merits.

9. Consequently, this petition is allowed. The impugned order is nullified in breach of rule of *audi alteram partem*, the right the State

enjoyed even on the date when the impugned order was passed. In view of the nature of the order passed nothing said herein will be construed as an expression of opinion of this Court on the propositions at stake and the dispute in issue with respect to the applicable pay scales.

**(RAJIV NARAIN RAINA)
JUDGE**

03.05.2016
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