

CWP No.18541 of 2014

[1]

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

**CWP No.18541 of 2014
Date of decision:22.11.2017**

Punjab State Power Corporation Limited ...Petitioner

Versus

Permanent Lok Adalat (PUS), Rupnagar and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. P.C.Goyal, Advocate,
for the petitioner.

Mr. A.S.Syan, Advocate,
for respondent no.2.

Rakesh Kumar Jain, J.

The petitioner has challenged the order dated 18.12.2013 passed by the Permanent Lok Adalat (Public Utility Services), Rupnagar (hereinafter referred to as the "Permanent Lok Adalat"), by which an application filed by respondent no.2 under Section 22-C of the Legal Services Authority Act, 1987 (hereinafter referred to as the "Act") has been allowed.

Counsel for the petitioner has submitted that before the application under Section 22-C of the Act was filed, a Consumer Complaint No.169 of 15.07.2008 was filed in the year 2008 by respondent no.3 on behalf of respondent no.2 in respect of the same cause of action, which was allowed by the District Consumer Disputes Redressal Forum, Ropar (hereinafter referred to as the "Forum") on 28.08.2008. However, the First Appeal No.1362 of 2008 filed by the petitioner was allowed by the Punjab State

Consumer Disputes Redressal Commission (hereinafter referred to as the “Commission”) on 08.11.2012 and the order of the Forum was set aside. Thereafter, the petitioner filed Consumer Complaint No.112 of 2013 on the same cause of action before the Consumer Disputes Redressal Forum, Mohali, which was otherwise withdrawn on 03.05.2013 and in that case, the following order was passed:-

“At this stage, in view of the statement of the learned counsel for the complainant recorded separately, the complaint is dismissed as withdrawn with liberty to the complainant to approach the appropriate authority. File be consigned to the record room.”

Thereafter, respondent no.2 filed the application before the Permanent Lok Adalat, which was registered as Case No.157/17.05.2013 and has been allowed vide the impugned order.

Counsel for the petitioner has submitted that the Permanent Lok Adalat has been conceived to deal with the pre-litigation conciliation and settlement of a dispute and it is provided under Section 22-C(1) of the Act that a party to a dispute make an application to the Permanent Lok Adalat for the settlement of a dispute before the dispute is brought before any other Court. It is, thus, submitted that the application filed by respondent no.2 before the Permanent Lok Adalat was not maintainable as respondent no.2, through respondent no.3, had already availed the legal remedy under the provisions of the Consumer Protection Act, 1986, in which he was initially successful as the Forum had decided the matter in favour of respondent no.2 but the said order was reversed in appeal in favour of the petitioner. It is also submitted that respondent no.2 did not stop here from filing the complaint and also availed another legal remedy by filing the second complaint under Section 12 of the

Consumer Protection Act, 1986 before the Forum at Mohali but for the reasons best known to him, the said complaint was withdrawn in order to approach the appropriate authority, which does not mean that he can file the application under Section 22-C of the Act.

On the other hand, counsel for respondent no.2 has submitted that the Consumer Complaint No.169 of 2008 was filed by respondent no.3 but it was not within the knowledge of respondent no.2 who was, at that time, serving in the Indian Navy and the Complaint No.112 of 2013 was withdrawn, therefore, the bar provided under Section 22-C(i) of the Act is not applicable. At the same time, on the asking of the Court, he has admitted that he had not taken any legal action against respondent no.3 for allegedly filing Consumer Complaint No.169 of 2013 on his behalf, without his permission.

I have heard learned counsel for the parties and examined the available record with their able assistance.

Section 22-C(i) of the Act categorically provides that “*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*”.

The fact of filing Consumer Complaint No.169 of 2008 by respondent no.2 before the Forum at Ropar, which otherwise has been denied by him to have been filed with his permission, and then filing of Consumer Complaint No.112 of 2013 by him before the Forum at Mohali speaks volume about his act and conduct. The very fact that respondent no.2 did not take any legal action against respondent no.3 for allegedly filing Consumer Complaint No.169 of 2008 on his behalf without his permission proves his connivance and acquiescence, otherwise it cannot be believed that any person would

initiate any legal proceedings on behalf of somebody else while spending huge money from his own pocket in the said litigation, without any interest.

Thus, I do not agree with the contention of the learned counsel appearing on behalf of respondent no.2 and hold that the earlier litigation was on the behest of respondent no.2 before the Forum and there is a bar provided under Section 22-C(i) of the Act that the application would not be entertained by the Permanent Lok Adalat if the matter had already been brought before some other Court.

In view of the above, the present petition succeeds and is hereby allowed and the impugned order dated 18.12.2013 passed by the Permanent Lok Adalat is set aside.

November 22, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned	:	Yes/No
Whether reportable	:	Yes/No