

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 16.05.2019****CWP No.10955 of 2000 (O&M)**

State of Punjab & others

...Petitioners

Vs.

K.C.Vaid & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Jasleen Sidhu, AAG, Punjab.

Mr. Upender Prashar, Advocate, for respondent No.1.

RAJIV NARAIN RAINA, J. (ORAL)

1. The requisitioned files i.e. CWP Nos.7988, 8026, 9054, 9828, 9807, 9808, 5799 and 6030 of 2000 have been perused. Those petitions have been dismissed as withdrawn on the basis of the statement made by the Advocate General, Punjab by order dated 02.08.2000. The order reads as follows:

“Learned Advocate General appearing on behalf of the petitioner – State of Punjab states that he has looked into the matter and finds that the terms in which the Award has been made by Lok Adalat are quite reasonable. Further, he states that the government would accept the same and comply with the Award. Therefore, he prays for permission to withdraw the writ petition.

We appreciate the reasonable stand finally taken by the government.

Permission granted.

The writ petition is dismissed as withdrawn.”

2. Briefly stated that with reorganization of the erstwhile State of Punjab, newly created State of Haryana which came into existence on 01.11.1966 and the petitioner was allocated to Haryana having spent several years of service in Punjab. He was posted in the corresponding Department in Haryana. While serving in Haryana, he applied for the post of Assistant Geologist in the Industries Department through proper channel and was selected by the Punjab Public Service Commission. He had relieved from the service of State of Haryana on 08.10.1969 and joined the service of State of Punjab on the next day i.e. 09.10.1969. He superannuated on 31.03.1998. Since for computing the pension and other retiral benefits of the petitioner, the State of Punjab has taken into consideration his qualifying service from 09.10.1969 to 31.03.1998, he preferred CWP No.3836 of 1999, wherein following order was passed by the Lok Adalat:

“Present: Shri N.S.Bawa,
counsel for the petitioner.

Shri Vikas Cuccria, Deputy Advocate General,
Punjab.

The petitioner joined the service of the department of Industries in the erstwhile State of Punjab on 10.01.1963. On re-organisation of the State, he was allocated to the newly created State of Haryana in the Industries Department with effect from 01.11.1966. While serving with the State of Haryana the petitioner applied for the post of Assistant Geologist in the Industries Department of the State of Punjab through proper channel. He was duly selected for the post. He was relieved from the service of State of Haryana on 08.10.1969 and he joined the service of the State of Punjab as Assistant Geologist on the following date i.e. 09.10.1969. he retired from the service on 31.03.1998 on attaining the age of superannuation. The respondent State of Punjab, however, has taken into consideration only his qualifying service from 09.10.1969 to 31.03.1998 for

computing his pension and other retiral benefits. His grievance is that the period from 10.01.1963 to 08.10.1969 should also have been taken into account.

It is undisputed that the Punjab Financial Rules were amended by a notification dated 26.02.1990 Annexure P-20, by which it was provided as under:-

“IV. INCIDENCE OF PENSION

Except in regard to the apportionment of liabilities of pensions of Government employees, who retired after serving the undivided India between India and Pakistan the adjustment of pensionary charges of Government employees, who have served under one or more than one Government shall be governed as under:-

The liability for pension including gratuity will be borne in full by the Central or State Government as the case may be to which the Government employee permanently belongs at the time of retirement.”

The above provision of the statutory rules leaves no scope for doubt that the entire period of service of the petitioner whether rendered in the erstwhile State of Punjab or the State of Haryana or in the reorganized State of Punjab is to be counted as qualifying service for the purpose of computation and payment of his pension and other retiral benefits. We, therefore, direct the respondents to redetermine compute once again, sanction and pay pension commuted amount of pension, DCR Gratuity and other retiral benefits by taking as qualifying service of the petitioner from 10.01.1963 to 31.03.1998 when he retired on attaining the age of superannuation. Payment due to the petitioner on account of such redetermination shall be made within a period of three months from today failing which the arrears payable to him shall carry interest at the rate of 18% per annum from 01.04.2000.

The above directions shall constitute a decree under Section 21 of the Legal Services Authority Act, 1987 and shall be strictly complied with.

The writ petition is disposed of accordingly.

Copy shall be supplied to the counsel for both the parties free of cost within 7 days.

Sd/-
(D.V.Sehgal)
President

Sd/-
(S.S.Goindi)
Member”

3. This order has been challenged by the State of Punjab in the instant writ petition on the ground that the Lok Adalat had no jurisdiction to decide the case on merits. There is no gainsaying that the Lok Adalat acting under the Legal Services Authorities Act, 1987 lacks such authority and there are binding precedents declaring so.

4. Today written statement has been filed on behalf of respondent No.1, which is taken on record. Copy has been supplied to Ms. Sidhu.

5. Having heard Ms. Jasleen Sidhu, AAG, Punjab and Mr. Upender Prashar, learned counsel appearing on behalf of respondent No.1, I cannot find my way to distinguish the orders of the Division Bench from the facts of this case, which are identical. Respondent No.1 was entitled to same relief based on the statement of the Advocate General, Punjab that the terms of the award passed by the Lok Adalat are reasonable. Punjab Government has accepted the claim and thereby complied with the award/s. This case appears to be a straggler which for some reason could not be listed with those cases when they were disposed of. This petition is of the same year as the other cases.

6. Accordingly, the present petition filed by the State of Punjab is dismissed in terms of the order dated 02.08.2000 based on the statement of the Advocate General, Punjab.

16.05.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>