

IN THE HIGH COURT OF PUNJAB AND HARYANA ATCHANDIGARH

CWP-604-2021 (O&M)

Date of Decision: March 31 2021

THE MANAGER, INDUSIND BANK

..... PETITIONER(s)

Versus

PAWAN GUPTA AND OTHERS

..... RESPONDENT(s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Arun Dogra, Advocate
for the petitioner.

Mr. Naveen Batra, Advocate
for respondent no.1.

Mr. Saurabh Bhardwaj, Advocate
for respondent no.2.

LISA GILL, J.

The petitioner is aggrieved of award dated 24.01.2020 (Annexure P-6), passed by the Permanent Lok Adalat (Public Utility Services), SBS Nagar.

Brief facts necessary for the adjudication of the case are that respondent no.1, admittedly a customer of the petitioner-Bank, filed a complaint/application under Section 22-C of the Legal Services Authorities Act, 1987, seeking refund of Rs.2 lakhs alongwith damages from the petitioner, arrayed as respondent no.1 before the Permanent Lok Adalat. It is pleaded in the said application that applicant along with his wife had a joint

saving account with the present petitioner. A cheque of Rs.2 lakhs was issued by them in favour of respondent no.3 on 11.12.2017 towards some fee for sending their daughter abroad. However, a dispute arose between applicant-respondent no.1 and respondent no.3. Respondent no.1-applicant instructed the present petitioner - its banker, not to make payment of the cheque to respondent no.3. The cheque in question was meanwhile presented for clearing through respondent no.2 on 10.01.2018. An amount of Rs.2 lakhs was debited from the account of the applicant/respondent no.1. On further instructions of applicant/respondent no.1, the present petitioner approached respondent no.2 and payment of the cheque was stopped through second time clearance by way of counter return. In fact, payment was admittedly never released or credited to the account of respondent no.3. The cheque was duly returned by respondent no.2 on 10.01.2018 with the objection 'Kindly contact drawer/drawee Bank and please present again'. Respondent no.3 duly disclosed to the applicant-respondent no.1 as well as the present petitioner that cheque stood returned and could not be encashed. However, applicant-respondent's account was debited with Rs.2 lakhs on 10.01.2018 and the amount was not refunded/re-credited to his account despite repeated efforts. Accordingly, application under the Legal Services Authorities Act was filed.

As conciliation proceedings failed, the matter was decided by the learned Permanent Lok Adalat on 24.01.2020 while observing that the applicant-respondent was unnecessarily harassed due to un-reconciled recoverable amount between two bankers i.e. the petitioner and respondent no.2. Respondent no.2 took a stand that certain amount was due towards the

said bank from the petitioner bank and it is on this count that the amount of Rs.2 lakhs was not being returned. It was directed by the learned Permanent Lok Adalat that the amount of Rs.2 lakhs be returned to the applicant-respondent alongwith interest @ 6% from date of filing of application till its realization. Petitioner was also directed to compensate the applicant with Rs.10,000/- for mental agony and Rs.5,000/- as litigation expenses. It was further observed that the petitioner and respondent no.2 being bankers would adjust the disputed amount without involving the applicant for inter-bank adjustments as per banking rules. Aggrieved therefrom present writ petition has been filed.

Learned counsel for the petitioner argues that the petitioner could not have been saddled with the liability on account of wrongful retention of the amount by respondent no.2. Respondent no.2, it is submitted was not entitled to retain the amount in question and once petitioner had not received back the amount from respondent no.2, it is not liable to refund the amount to respondent no.1. Moreover, there is no occasion for imposing Rs.10,000/- for mental agony and Rs.5,000/- as litigation expenses. It is, thus prayed that this writ petition be allowed and impugned order dated 24.01.2020, passed by the Permanent Lok Adalat (Public Utility Services), SBS Nagar be set aside.

I have heard learned counsel for the parties and have gone through the file with their able assistance.

It is brought to my notice that the amount in terms of impugned order dated 24.01.2020 has since been released to respondent no.1, subject to an indemnity bond, which has been secured from respondent no.1. Learned

counsel for the petitioner is unable to deny that applicant-respondent is indeed a customer of the petitioner bank. Factual position of issuance of the cheque of Rs.2 lakhs by the applicant on 11.12.2017 and the same not being credited into the account of respondent no.3, due to specific instructions given by the applicant, is also not in dispute. The amount in question was retained by respondent no.2 on account of some liability, which is claimed by it qua the petitioner-bank. Said liability is disputed by the petitioner, however, learned counsel for the petitioner as well as respondent no.2 are unable to deny that applicant-respondent no.1 has no concern whatsoever with the dispute between two warring banks. In my considered opinion applicant/respondent being a customer of the bank was indeed entitled to refund of the amount from the petitioner. In case, of any dispute between the petitioner and respondent no.2, it was open for the petitioner to have taken up remedies as would be available to it in accordance with law without involving the applicant unnecessarily. Respondent no.1 was definitely not to be victimized and harassed needlessly. Therefore, learned Permanent Lok Adalat has rightly passed order dated 24.01.2020.

No other argument has been addressed.

This writ petition being devoid of any merit is dismissed with no order as to cost.

Needless to say, the petitioner is at liberty to avail the remedy/remedies available to it qua its claim against respondent no.2, in accordance with law.

March 31, 2021

Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No