

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.23010 of 2016

**B.M., Bajaj Allianz General Petitioners
Insurance Co. Ltd., Berhampur
& Anr.**

-versus-

Kabiraj Sahu & Anr. Opposite Parties

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
15.11.2022**

Order No

- 05.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. G.P. Dutta, learned counsel for the Petitioners and Mr. Satyabrata Mohanty, learned counsel appearing for Opp. Party No. 1.
3. This writ Petition has been filed by the Petitioner-Company challenging the Award dt.18.11.2016 passed by the Permanent Lok Adalat for Public Utility Services, Ganjam at Berhampur under Annexure-1.
4. It is the main contention of the learned counsel for the Petitioners that the claim filed by the Opp. Party No. 1 in PLA Case No. 31 of 2015 was originally rejected vide award dtd.28.10.2015 under Annexure-2. But subsequently in absence of any provision for entertaining any application for review under the provisions of Legal Services Authorities Act, 1987 (in short "Act"), the Opp. Party No. 2 not only entertained the Review application filed by the Opp. Party No. 1 under Annexure-3, but also allowed the claim with passing of fresh award on 18.11.2016 under Annexure-1.

5. It is stand of the learned counsel for the Petitioner that since under the Act, there is no provision for filing of any application for review, the said application filed by the Opp. Party No. 1 under Annexure-3 should not have been entertained with passing of the impugned award.

6. Mr. Dutta, learned counsel for the Petitioner also brought to the notice of this Court the provision contained under Section 22-D and Section 22-E of the Legal Services Authorities Act, 1987. The said provisions are enumerated hereunder:-

“22-D. Procedure of Permanent Lok Adalat-The Permanent Lok Adalat shall, while conducting conciliation proceedings or deciding a dispute on merit under this Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice, and shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908) and the Indian Evidence Act, 1872 (1 of 1872).

22-E. Award of Permanent Lok Adalat to be final.-(1) Every award of the Permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them.

(2) Every award of the Permanent Lok Adalat under this Act shall be deemed to be a decree of a Civil Court.

(3) The award made by the Permanent Lok Adalat under this Act shall be by a majority of the persons constituting the Permanent Lok Adalat.

(4) Every award made by the Permanent Lok Adalat under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding.

(5) The Permanent Lok Adalat may transmit any award made by it to a Civil Court having local jurisdiction and such Civil Court shall execute the order as if it were a decree made by the Court.]”

7. It is urged that since the award passed by the Permanent Lok Adalat is final as provided under Sec. 22-E of the Act, with no provision for review, the review application filed by the Opp. Party No. 1 seeking review of the Award originally passed on 28.10.2015

should not have been entertained at all. Consequentially, the subsequent award passed under Annexure-1 is not legally tenable.

8. This Court after going through the provisions enumerated under the Act finds that there is no provision for filing of review application against the order passed by the Permanent Lok Adalat and the award initially passed on 28.10.2015 is final.

9. This Court vide order dtd.31.10.2022 though allowed an opportunity to the learned counsel appearing for the Opp. Party No. 1 to show any provision with regard to the power of Permanent Lok Adalat to entertain such application for review, but Mr. Mohanty, learned counsel for the Opp. Party No. 1 fairly submitted that there is no such provision for filing of review under the Act.

10. In view of the said submission made by the learned counsel for the Parties and the provision contained under Section 22-D and Section 22-E of the Act, this Court is of the prima facie view that the Permanent Lok Adalat should not have entertained the review application at the instance of Opp. Party No. 1 with passing of the impugned award under Annexure-1.

11. Therefore, this Court is inclined to set aside the said award and while setting aside the same, this Court grants liberty to Opp. Party No. 1 to challenge the original award passed on 28.10.2015, if the Opp. Party No. 1 so likes.

12. The writ Petition is disposed of with the aforesaid observation.

(Biraja Prasanna Satapathy)
Judge

Sneha