

221 (1)

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

**CWP No. 15808 of 2016 (O&M)
Date of Decision: 25.05.2022.**

Inderjit Kaushik and othersPetitioners
Versus
State of Punjab and othersRespondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Gunjan Mehta, Advocate for
Mr. Sapan Dhir, Advocate for the petitioners.
Mr. Vikas Mohan Gupta, Addl. AG Punjab.
Mr. Varlin Garg, Advocate, for respondent No.2-NALSA.
Mr.Rajiv Joshi, Advocate for respondent No.3.
Mr. Satya Pal Jain, Additional Solicitor General with
Ms. Sharmila Sharma, Advocate for Union of India.

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MAHABIR SINGH SINDHU. J.

Civil writ petition has been filed under Article 226 of the Constitution, *inter-alia*, for issuance of writ in the nature of Certiorari to quash the impugned office order dated 29.07.2016, whereby petitioners were relieved from respective post(s) of Chairmen/Member(s), Permanent Lok Adalats (Public Utility Services), for short 'PLA (PUS)' in the State of Punjab.

2. Admittedly, all the petitioners were appointed as Member(s)/Chairmen from 07.05.2012 to 30.05.2016 by respondent No.3.

3. Section 22B of the Legal Services Authority Act, 1987, (for short 'the Act') deals with the establishment of Permanent Lok Adalats and which reads as under:-

"22B. Establishment of Permanent Lok Adalats.—

(1) *Notwithstanding anything contained in section 19, the
Central Authority or, as the case may be, every State*

Authority shall, by notification, establish Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification.

- (2)** *Every Permanent Lok Adalat established for an area notified under sub-section (1) shall consist of –*
- (a) a person who is, or has been, a district judge or additional district judge or has held judicial office higher in rank than that of a district judge, shall be the Chairman of the Permanent Lok Adalat; and*
- (b) two other persons having adequate experience in public utility service to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority or, as the case may be, the State Authority, appointed by the Central Authority or, as the case may be, the State Authority, establishing such Permanent Lok Adalat and the other terms and conditions of the appointment of the Chairman and other persons referred to in clause (b) shall be such as may be prescribed by the Central Government.”*

4. At the time of engagement of the petitioners, sub-rule 2, Rule 4 of the Permanent Lok Adalat (Other Terms and Conditions of Appointment of Chairman and other Persons) Rules, 2003, for short ‘the Rules of 2003’ dealing with term of office of Chairmen/Member(s) was as under:-

- “4. Terms and conditions of service of Chairman and other persons of Permanent Lok Adalat:-**
- 1.**
- 2. The Chairman and other persons shall hold office for a term of 05 years and shall not be eligible for re-appointment.**
- 3. to 5.”**

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5. Paper-book reveals that respondent No.4-Ministry of Law and Justice (Department of Justice) vide Notification dated 22.06.2016 substituted aforesaid sub-rule 2, to the following effect:-

“(2) The Chairman and other persons shall hold office for a term of five years or till the age of sixty five years, whichever is earlier.”

In view of the above amendment, the Member Secretary, Punjab Legal Services Authority (respondent No.3) vide letter dated 06.07.2016 requested the Member Secretary, National Legal Services Authority (respondent No.2) for clarification as to whether *“the maximum age limit of 65 years is applicable even on those Chairmen and Members of the Permanent Lok Adalat (Public Utility Services), who are already serving at the time of notification”*.

6. In response thereto, vide letter dated 28.07.2016, the Member Secretary of all State Legal Services Authority were intimated by respondent No.2 to the effect that maximum age limit of 65 years *“should also apply to those who were in service at the time when the amendment was made.”*

In view of the above communication, the Executive Chairman of respondent No.3, decided on 28.07.2016 to relieve all those Chairmen/ members of PLA (PUS) from their respective post(s), who have crossed the age of 65 years.

7. In order to comply with above decision of Executive Chairman, the Member Secretary of respondent No.3, while issuing the impugned office order dated 29.07.2016 relieved six out of the seven petitioners with immediate effect from their respective post(s); whereas

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petitioner No.5-Kulwant Singh Brar stood relieved w.e.f.16.07.2016 (AN). Hence, the present writ petition.

8. It transpires that on 10.08.2016, while issuing notice of motion, the following order was passed:-

“Petitioner Nos. 1 to 7 were appointed as Chairmen/ Members of Permanent Lok Adalats (for short “PLAs”) at different places for a tenure of five years, the detail of which is as under:-

Petitioner's No.	Name	Designation	Place of Posting	Date of Appointment	Tenures
1.	Inderjit Kaushik	Chairman	PLA Fatehgarh Sahib	26.09.2014	Five years, ending on 25.09.2019
2.	Satinder Mohan Singh Mahal	Chairman	PLA Jalandhar	07.05.2012	Five years, ending on 06.05.2017
3.	Surinder Mohan	Chairman	PLA Moga	11.08.2015	Five years, ending on 10.08.2020
4.	Darshan Singh Laungia	Member	PLA Fatehgarh Sahib	13.08.2013	Five years, ending on 12.08.2018
5.	Kulwant Singh Brar	Member	PLA Bathinda	16.07.2014	Five years, ending on 15.07.2019
6.	Narinder Kumar	Member	PLA SBS Nagar	30.05.016	Five years, ending on 29.05.2021
7.	Som Nath	Member	PLA Kapurthala	06.11.2013	Five years, ending on 05.11.2018

It is averred that the petitioners were appointed and governed by the Permanent Lok Adalat (Other Terms and Conditions of Appointment of Chairman and Other Persons) Rules, 2003 (hereinafter to be referred as “2003 Rules”). The Central Government vide Notification dated 22.06.2016 (P-3) amended the rule governing the term of appointment of the Chairmen and members by restricting the tenure to five years or till the age of 65 years whichever is earlier. The amended portion in block letters of Sub Rule (2) of Rule 4 of 2003 Rules reads as under:-

*“The Chairman and other persons shall hold office for a term of five years **or till the age of sixty five years, whichever is earlier.***

(Emphasis supplied)”

The precise grievance of the petitioners is that their tenures have been cut short by wrongly interpreting the amended provision of Sub Rule (2) of Rule 4 of 2003 Rules on the incorrect premise that the amended restriction of 65

years is applicable to the present incumbents as well. Thus, the challenge is to the impugned order dated 29.07.2016 (P-6) passed by respondent No.3/Punjab Legal Services Authority, Chandigarh relieving the petitioners of their duties.

It is contended that the amended provisions of Sub-Rule (2) of Rule 4 of 2003 Rules would be applicable only to the new incumbents appointed after the amendment and not to the existing incumbents in place as it is apparent from the bare reading of the amended provisions that they are to operate prospectively and not retrospectively.

Notice of motion for 17.08.2016.

Notice regarding stay as well.

On the asking of the Court, Sh. Chetan Mittal, Assistant Solicitor General for Union of India, accepts notice on behalf of respondent No.2-UOI whereas Harminder Singh Sethi, Addl. AG Punjab accepts notice on behalf of respondent Nos. 1 & 3.

Learned counsel for the petitioners undertakes to furnish requisite number of copies of the paper book to the counsel opposite.

To be shown in the urgent list.”

9. The order sheet(s) also reveal that upon request of learned counsel for NALSA-respondent No.2, the matter was adjourned twice i.e. 17.08.2016 & 24.08.2016 and thereafter, on 05.09.2016, the operation of the impugned relieving order qua petitioners No.1, 2, 3, 6 & 7 was stayed in the following manner:-

“Learned Counsel for respondent No.2-NLSA and respondent no.4-UOI prays for more time to file reply.

At this stage, learned Counsel for the petitioners prays for interim directions pursuant to their arguments canvassed on the previous dates.

Learned Counsel for respondent no.3-PLSA, on a pointed query, on instructions concedes that the functioning of the Public Utility Services in Punjab have been affected and it will take some time before fresh appointments are

made, which in any case, would have to await the outcome of the present writ petition.

Prima facie, it has been shown that no power has been vested with the Central Government under Section 27 of the Legal Services Authority Act, 1987 to frame Rules, which can have retrospective operation with regard to the matters provided therein and that even from the bare reading of the amendment, it is evident that the same has to operate prospectively and would not affect the tenure appointments of the existing Chairman/Members of the Permanent Lok Adalat. It is urged that vide order dated 10.08.2016 notice regarding stay was also issued, however, till today, no reply has been filed.

Adjourned to 19.10.2016 for arguments.

Reply, if any, be filed one week prior with an advance copy to learned Counsel for the petitioners.

In the meanwhile, the operation of the relieving orders during the subsisting tenure of petitioner no.1-Inderjit Kaushik, petitioner no.2- Satinder Mohan Singh Mahal, petitioner no.3-Surinder Mohan, petitioner no.6-Narinder Kumar and petitioner no.7-Som Nath shall remain stayed and they shall be permitted to rejoin forthwith subject to further orders. The question of payment of the emoluments for the interregnum period, they have remained out of service shall be decided at the final stage, and the consequent rejoining shall be subject to the final decision of the writ petition.

It is clarified that during the pendency of the present writ petition, if the term of any of the petitioner(s) expires, the same is not liable to be extended by virtue of the present interim order.”

Also necessary to mention here that above interim arrangement has been extended from time to time.

10. Today, during the course of hearing, both sides acknowledged that in view of the interim stay granted in the matter, even

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as per the un-amended sub-rule 2 (*ibid*) also, petitioners No.1, 2, 3, 6 & 7 have already completed their tenure of 05 years.

In view of the above factual position, learned counsel, on instructions from petitioners, fairly submitted that practically on merits, nothing survives in the present petition and as such the same be disposed off as having been rendered infructuous.

At the same time, he made an innocuous prayer to the extent that for the intervening period i.e. from the date of relieving of petitioner Nos.1, 2, 3, 6 & 7, till their re-joining in pursuance of the interim stay, they be granted liberty to raise the grievance(s) before the competent authority.

After obtaining instructions, the above prayer of the petitioners is not objected by learned counsel for the respondents.

11. As a result of the consensus arrived at between both sides, but without adjudicating the controversy on merits, this writ petition is disposed off as having been rendered infructuous with liberty aforesaid to petitioner Nos.1, 2, 3, 6 & 7.

It is made clear that in case, a representation(s) is/are made by the aforesaid petitioner(s) before the competent authority within 02 weeks' from receipt of certified copy of this order, the same shall be considered and decided in accordance with law on or before 30.09.2022.

25.05.2022
SN/sanjay

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No