IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

235 **CWP-8539 of 2020**
Date of Decision:14.09.2023

Sarva Haryana Gramin Bank-Kharoudi and another

....Petitioners

Versus

The Chairman, Permanent Lok Adalat for Public Utility Services, Kaithal and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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Present: Mr. Mukesh Kumar Gupta, Advocate,
for the petitioners.

Mr. Nitin Thatai, Advocate,
for the respondents No.2 and 3.

Ms. Monika Jangra, Advocate,
for respondent No.4.

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VINOD S. BHARDWAJ, J. (Oral)

1. The petitioners have raised a challenge to the order dated 28.02.2020 passed by the Permanent Lok Adalat for Public Utility Services, Kaithal, District Kaithal whereby the application preferred by respondent No.4 has been allowed and the respondent No. 4 has been held entitled to the insurance claim under the Prime Minister Jeevan Jyoti Bima Yojna (hereinafter referred to as PMJJBY).

2. The brief facts of the present case are that the deceased Mahinder Pal @ Mahinder Singh son of Jagat Ram (since deceased) and father of respondent No.4 had approached the petitioner bank for opening up a saving bank account on 24.09.2013. A Saving Fund Account form on a prescribed format of the bank

(HGB-1101) was submitted by him after filling up all the relevant columns. An account bearing No. 82881700000554 was thereafter opened. Mahinder Pal @ Mahinder Singh i.e. father of respondent No.4 also submitted an unfilled and signed consent-cum-declaration form, for joining the Pradhan Mantri Jeevan Jyoti Bima Yojna for the permissible enrolement period as per the policy. As many as four annual installments are stated to have been deducted from the saving account of the father of respondent No.4 on an auto debit instruct. Mahinder Pal @ Mahinder Singh eventually passed away on 20.07.2018 as per the death certificate. An application was thereafter submitted by respondent No.4 to the respondents authorities for release of insurance benefits to the tune of Rs.2,00,000/- (two lacs) in terms of the PMJJBY scheme, however, the same was not released. Hence, an application under Section 22-C of the Legal Services Authority Act, 1987 was filed by respondent No.4.

3. Upon notice, the petitioners herein appeared and filed their joint written statement. The claim of respondent No.4 was disputed on the ground that for being eligibile under the PMJJBY, the bank account holder ought to be in the age group of 18 to 50 years and that amount of premium for two years had been deducted from the account of Mahinder Pal @ Mahinder Singh. It was contended that the intimation furnished by Mahinder Pal @ Mahinder Singh for account opening and for availing the benefit of the above-said insurance scheme were incorrect. Hence, the benefits of insurance admissible under the said scheme could be declined when the information was found to be untrue. The benefit of the insurance scheme could be released in favour of an insured who could seek the benefit of joining the scheme by the age of 50 years and upto attaining the

maximum age of 55 years. Respondent No.4 had appended an Aadhar card No.773334548657 of deceased Mahinder Pal @ Mahinder Singh as per which the date of birth of the deceased was 01.01.1962, hence, as on the date of joining of the scheme on 11.07.2015, the deceased was more than 50 years and that he had crossed the age of 55 years as on the date of he passed away i.e. 20.07.2018. Hence, on both the counts he was not eligible for the release of benefits as per the scheme. The action in not disbursing the benefit was thus appropriate.

4. Efforts to amicably dissolove the issue in terms of Section 22 C (4) to (7) of the Legal Services Authorities Act, 1987 was initiated by the Permanent Lok Adalat for Public Utility Services, Kaithal, however, it failed to fructify in any settlement. Consequently, the adjudication in terms of Section 22C(8) of the Legal Services Authorities Act, 1987 was initiated.

5. Upon consideration of the pleadings as well as the evidence adduced before the Permanent Lok Adalat (Public Utility Services), Kaithal, it concluded that the proof of birth of deceased Mahender Pal, submitted by respondent No.4, as Ex.R-15 reflected the date of birth of Mahinder Pal @ Mahinder Singh as 30.12.1963 and as such, as on the date when he passed away, he was less than 55 years of age. It was also held that the respondents cannot absolve themselves from the consequences of the liability solely by alleging that the insured was more than 50 years at the time of opening of the account especially when it was also the collective responsibility of the insurance company as well as the Master Policy holder to ensure that all the pre-requisite eligibility conditions are complied with by the insured before extending the benefits of scheme to him. Despite, the deductions having been made from the savings bank account of the deceased, the

respondents do not mean to honour the commitment made and to release the benefits.

6. Aggrieved therefrom, the present petition has been filed.

7. Counsel for the petitioners has reiterated his submissions noticed above to contend that the deceased Mahender Pal having exceeded the maximum age for availing the policy benefits under the PMJJBY scheme and being overage on the date of his death, the respondent No.4 was not entitled to the benefit of release of the sum assured.

8. Counsel for the respondent No.4 on the other hand, has reiterated her submissions that sufficient evidence was led before the Permanent Lok Adalat (Public Utility Services), Kaithal to show that the deceased was less than 55 years of age as on 20.07.2018. The correct date of birth of Mahender Pal was 30.12.1963 and not 01.01.1962 as was reflected in the Aadhar card. She further argued that once the date of birth certificate had duly been furnished, the date of birth recorded therein would have precedence over the date mentioned in the Aadhar card. She further argued that there is no averment that the birth certificate furnished by respondent No.4 was either a forged or a fabricated document or had been obtained by a fraud. She further contends that the documents of proof of birth were never asked for by the petitioner-Bank at the time of account opening and as such there was no occasion for the father of respondent No.4 to have supplied the same. If such a requirement was essential for extending the benefit of PMJJBY scheme, the petitioner-Bank ought to have asked for the requisite documents pertaining to the age and proof of date of birth and ought to have forwarded the same for insurance purposes only after verifying the same. The petitioner-Bank having preferred not to

insist upon the said documents and the respondent-Insurance Company having also not carried out adequate check and balances to ensure that the payment is being received from an eligible person, cannot be absolved of their obligation after the beneficiary has died. It is also averred that the deceased could not be presumed to have known about the essential eligibility requirements prescribed in the scheme and that the petitioner-bank, being the Master Policy holder, was primarily obligated to ensure that the eligibility conditions are duly fulfilled by an insured before the scheme benefits are extending to him.

9. I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents available on record.

10. The entire case of the petitioner hinges upon the age of the deceased at the time of account opening and at the time of his death. While the petitioner-Bank i.e. the Master Policy holder places reliance on the Aadhar card which shows the date of birth is 01.01.1962, the evidence adduced before the Permanent Lok Adalat (Public Utility Services), Kaithal reflects the date of birth as 30.12.1963. The credibility and creditworthness of the said document i.e. Ex. R-15 has remained unimpeached. Further, there is no reference to any provision under which the Aadhar card is the final document admissible as a proof of age and the date of birth. In the event of any conflict between the documents i.e. the birth certificate and/or the date of birth as mentioned in the Aadhar card, the date as recorded in the birth certificate has to be given precedence. The petitioner-Bank failed to produce on record any cogent, trustworty or *prima facie* evidence on the basis whereof the birth certificate placed on record as Ex. R-15 could have been impeached of its creditworthiness.

11. It is also undisputed that the deceased Mahender Pal @ Mahender Singh had not furnished any document in relation to his proof of birth at the time of account opening and it is also not the pleaded case of the petitioner that the essential terms and conditions of the PMJJBY scheme, relating to the age of a beneficiary to be between 18 to 50 years was informed to the deceased. The primary obligation was on the Master Policy holder i.e. the petitioner Bank to verify that an account holder fulfills the terms and conditions of the policy and that the documents are forwarded to the insurance company only after proper and due verification of the eligibility requirements prescribed in such documents. Having chosen not to check the same/or verify the pre-requisite for extending the benefit of policy and having availed the benefits in the form of deduction or premium, the respondents cannot run away from their obligation to honour the commitment and assurance extended to the deceased at the time of accepting the premium by resorting to the essential terms and conditions that apparently had never been brought to the notice of the deceased.

12. The acceptance of a premium is *ipso-facto* an acceptance of the liability. Having accepted and under written the liability by acceptance of premium and not refunding the same, it would be inappropriate on the part of the respondents and hence by the insurance company to deny their obligation to pay/release the benefits admissible under the scheme after the beneficiary has passed away.

13. The relevant extract of the Award passed by the Permanent Lok Adalat for Public Utility Services, Kaithal, District Kaithal considering all the said aspects, is reproduced hereinafter below:-

"*8. It is an admitted case of the parties that the petitioner is the son of Mahender Singh (now deceased). It is also admitted case of the parties that deceased Mahinder Singh had opened his Saving Bank Account bearing No.82881700000554 with the respondent-bank. It is also an admitted fact that the respondents introduced life insurnace policy namely PMJJBY, copy of which is Ex. R-2, vide which a sum of Rs.2,00,000/- was payable to the account-holder (deceased) in case of his death. It is also admitted case that policy premium of Rs.330/- was deducted from his saving bank account on 22.5.2017 and another sum of Rs.330/- was deducted from this account on 24.05.2018. On 20.07.2018 Mahinder Singh died and after his death the petitioner submitted claim on 3.10.2018 through CM Window but the same was rejected, vide letter Ex. R-3, on the ground that the deceased was more than 50 years at the time of opening of the account. It is also proved vide Ex. R-4 that the petitioner was appointed nominee by Mahinder Singh deceased in the said account. The respondents have relied upon Ex. R-15, copy of birth certificate in which date of birth of Mahinder Singh son of Jagat Ram is mentioned as 30.12.1963.*

9. In view of law laid down in Life Insurance Corporation of India Versus Balbir Singh and another IV (2008) CPJ 326, relied upon by the learned counsel for the petitioner, repudiation of claim on the basis of wrong date of birth given in proposal form, no reliance can be placed on the ration card. In these circumstances the compensation and cost were awarded to the legal heirs of the Insured. Learned counsel for the respondents relied upon I(2009) CPJ 141 Rajrani Vs. Life Insurance Corporation of India; and III(2001) CPJ 116 in which the claims were repudiated on the ground that true age was not disclosed by the Insured.

10. At the time of opening the Saving Bank Account, no age proof was demanded by the bank authorities as no proof had been produced by them. The bank introduced PMJJBY Scheme and enrolled the deceased in that Scheme. It is an admitted fact that the bank *authorities debited two premiums of insurance amounting to Rs.330/- on 22.05.2017 and 24.05.2018. The dispute arose when account-holder Mahinder Singh died and the petitioner submitted his claim of Rs.2,00,000/-. At this stage the respondents cannot raise objection regarding age and they are liable to pay the amount of compensation to the tune of Rs.2,00,000/- to the petitioner being nominee of the deceased-account holder Mahinder Singh. The contention and submission of the Ld. Counsel for the respondent has no force as the rule of the LIC Ex. R-2 provides that a person more than the age of 50 year is not entitled to get the compensation and registration under the scheme. Because these rules are also applicable to the respondent itself. It was the duty of the respondent to check/scrutinize the relevant paper within a stipulated period. But the respondent has not done it so far. By accepting the second installment the respondent has lost his right to repudiate the claim on the ground of excessive date of birth of the policy holder. At the belated stage, the respondent themselves are not entitled to raise any objection regarding the eligibility criteria of the petitioner. Hence, the document Ex. R-15 birth certificate (issued by Govt. School) is not maintainable at this stage.*

11. The net result of our aforesaid discussion is that the petition of the petitioner succeeds and the same is hereby allowed. An award is hereby passed in favour of the petitioner and against the respondents directing them to pay a sum of Rs.2,00,000/- to the petitioner being the nominee of the deceased Mahinder Singh alongwith interest @9% per annum from the date of filing of the petitioner claim, within a period of two months, failing which the petitioner shall be entitled to get 9% interest from the date of filing of this application, if any delay is caused by the respondent in paying the said compensation. Hence, the award is passed accordingly."

14. It is evident that all the contentions noticed by the petitioner-Gramin

Bank have been taken into consideration by the Permanent Lok Adalat (Public Utility Services), Kaithal and a conclusion has been recorded by it which such conclusion drawn by the Permanent Lok Adalat cannot be said to be untenable or not based on objective consideration of the document/evidence available on record.

15. It is a settled position of law that where a discretion has been exercised by a subordinate Authority/Court, after consideration of the evidence, and the conclusion drawn by it is tenable on consideration of the evidence adduced before it, the High Court as a Court of judicial review would not substitute its opinion for the discretion recorded by the competent authority merely because any other view is also possible.

16. The respondents received premium for a period of nearly four years. Under the provisions of Section 45 of the Insurance Act and the Regulations issued thereunder, an irregularity would stand regularized after a lapse of 2 years. The burden of proof that the deceased was not eligible as per essential terms of the Policy lay on the petitioner. The respondents would be deemed to have discharged their onus by proving the date of birth and producing document on record that behind the objection raised by the petitioner. Nothing has been brought on record to show that there was a misdeclaration or concealment by deceased that the essential terms were made known to the deceased.

17. Permanent Lok Adalat is governed by Section 22 D for passing awards i.e. principles of natural justice, equity, fairness as well as objectivity and other principles of justice. An equity exercised on objective assessment of evidence would not be interfered with normally.

18. For interference in such an Award, an illegality, impropriety, perversity or grossness appreciation of evidence ought to be reflected. It must be established by the person challenging the said Award that the conclusion drawn by the Permanent Lok Adalat (Public Utility Services), Kaithal was not sustainable on meaningful reading of the evidence rendering it liable to be set aside.

19. I find that there is no illegality, impropriety, perversity and mis-appreciation of evidence by the Permanent Lok Adalat (Public Utility Services), Kaithal in its impugned Award dated 20.08.2020 passed in case No. LA-282 of 17.12.2018. The same is accordingly affirmed.

20. The present writ petition accordingly stands dismissed.

(VINOD S. BHARDWAJ)
JUDGE

September 14, 2023
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Whether speaking : Yes/No

Whether reportable : Yes/No