

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

202

CWP-23585-2016

Date of decision: 29.05.2023

SATISH KUMAR

.....Petitioner

VERSUS

PERMANENT LOK ADALAT AND ORS

.....Respondents

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

Present :- Mr. Hemant, Advocate for
Mr. Puneet Jain, Advocate
for the petitioner.

Respondent No.2 ex-parte.

Mr. Bhushan Bhatia, Advocate
for respondent No.3.

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed for seeking quashing/setting aside of the award dated 01.08.2016 (Annexure P-4) passed by the Permanent Lok Adalat (Public Utility Services), Sirsa vide which the petitioner has been directed to pay a compensation of Rs. 20,000/- as compensation to the respondent No.2.

2. Briefly summarized the facts of the present case are that the respondent-applicant who is a resident of Ward No. 11, Nohar Tehsil Nohar, Distt. Hanumangarh, Rajasthan had opened a flexi R.D. Account bearing

No. 817376000000266 in Sarv Haryana Gramin Bank, Branch Office

CWP-23585-2016

-2-

Ellenabad. He claimed that he had gone to the Bank and wanted to deposit a sum of Rs. 40,000/- in the aforesaid Account in the month of July, 2014, however, the petitioner Manager refused to accept the above said amount on the ground that the account had been ordered to be freezed due to pendency of some departmental enquiry against Mukesh Garg (brother of the respondent-applicant Basant Garg) who had been earlier working as Assistant Manager in the said Bank. The claim of the respondent-applicant was that Mukesh Garg, Assistant Manager had no connect with the aforesaid account and therefore the pendency of the departmental enquiry against Mukesh Kumar Garg had no bearing on operation of the aforesaid account by him. However, the aforesaid request was not acceded to by the petitioner while being posted as Manager of the said Bank and the respondent-applicant was not permitted to operate the Account. Resultantly, the application was moved by the respondent No.2-applicant requesting closure of the account and for release of the amount lying deposited therein which was stated to be more than Rs. 4 lacs. The petitioner made the following endorsement on the above said application:-

“your accounts mentioned above stand freezed in connection with Sh. Mukesh Kumar Garg, fraud case and are under investigation. The same can be closed only after the investigation is over and instructions are received from head office/RO.”

3. Alleging that the amount in question had been wrongly withheld, the respondent-applicant filed Civil Suit No. 122-C of 2015 in Civil Court at Ellenabad on 01.09.2015 seeking mandatory injunction. The said civil suit was fixed for 08.12.2015, however, the amount of Rs.

CWP-23585-2016

-3-

4,18,301/- was released after imposing a penalty of Rs. 8243/- on account of premature release of the R.D. flexi enclosed the said account on 20.11.2015. The respondent-applicant also claimed compensation of Rs. 2 lacs for such undue and unnecessary harassment, however, the same was declined.

4. An application was thereafter preferred by the respondent-applicant before the Permanent Lok Adalat (Public Utility Services), Sirsa for seeking compensation. The petitioner as well as the respondent-Bank were summoned and proceedings for conciliation of the dispute and its amicable resolution were initiated by the Permanent Lok Adalat (Public Utility Services), Sirsa. However, the same failed to yield any result. Consequently, the adjudication was initiated by the respondents.

5. In the written statement filed on behalf of the respondents (petitioner herein), it was averred that the application was not maintainable and the petitioner had no *locus standi*. On merits, it was contended that the petition is liable to be rejected since the petitioner had filed a civil suit before the Civil Judge, Ellenabad for the same cause of action which was dismissed on 12.12.2015, prior to approaching the Permanent Lok Adalat (Public Utility Services), Sirsa. It was further averred that the true and correct genesis of the occurrence has not been revealed by the respondent-applicant. Mukesh Garg, the brother of the respondent-applicant was working as Assistant Manager with the respondent-Bank. During his tenure, he committed fraud with the Bank and misappropriated an amount of Rs. 4,55,855.98 in Account No. 81680100014533 (water-shed). Resultantly, a criminal case bearing FIR No. 330 dated 06.08.2015 was registered against Mukesh Garg for commission of offence under Sections 409/420 IPC. A Departmental proceedings was also initiated against Mukesh Garg and it

CWP-23585-2016

-4-

transpired that the Mukesh Garg had opened an account with forged particulars and the money from a dormant account was thereafter transferred to the said account and subsequently routed to other accounts of his family members that were being held in the said Branch. During the pendency of the departmental enquiry, Mukesh Garg (brother of the respondent-applicant) executed a writing admitting that on his transfer from Rania to Keharwala, he had made numerous transfers from the aforesaid account to the accounts of his own family members/persons of trust and then closed the said account. Details were furnished by him about the routing of the said money through different accounts including the account of the respondent-applicant herein. Consequently, all such accounts, to which the money had been diverted were ordered to be freezed by the Bank during the pendency of the departmental enquiry. The petitioner moved the aforesaid application seeking closure of the account on 25.07.2015, however, the said application could not be processed on account of the pending departmental enquiry. However, after the institution of the Civil Suit by the petitioner, Mukesh Garg deposited the above said entire amount that had been misappropriate/diverted by him from the Bank. The petitioner was thereafter permitted to withdraw his amount from the account with the respondent Bank.

6. After consideration of the respective submissions, the Permanent Lok Adalat (Public Utility Services), Sirsa allowed the application and directed the respondents (petitioner herein) to pay a compensation of Rs. 20,000/- to the respondent-applicant. Aggrieved thereof, the present writ petition had been filed.

7. Even though, respondent No.2-applicant had been served,

CWP-23585-2016

-5-

however, he chose not to appear in the present case and was accordingly ordered to be proceeded against ex-parte vide order dated 17.07.2018.

8. A separate written statement had been filed by respondent No.3- Bank which supported the case of the petitioner.

9. Counsel for the petitioner has vehemently argued that the proceedings initiated before the Permanent Lok Adalat (Public Utility Services), Sirsa were not maintainable. The petitioner while being employed as a Manager of the respondent-Bank had acted in compliance with the order passed by the Authorities of the Bank freezing the account in question as departmental enquiry against the brother of the respondent-applicant for having misappropriated the amounts from a dormant account was pending. The brother of the petitioner having admitted the diversion of such funds and its misappropriation by routing the same through different accounts including that of petitioner, they had no option but to not permit the respondent No.2-applicant from operating the said account and withdraw the amount.

10. He further submits that the said respondent preferred a Civil Suit for mandatory injunction before the Civil Court and had also claimed interest for the delay in release of the aforesaid amount. The said Civil Suit was thereafter dismissed.

11. It is contended that Section 22 (C) (1) of the Legal Services Authorities Act, 1987 clearly specifies that for the purposes of approaching the Permanent Lok Adalat (Public Utility Services), Sirsa, the party to a dispute must not have approached any other Court as has been defined under Section 2 (aaa) of the Legal Services authorities Act, 1987. Since the petitioner had approached the Civil Court for the said reliefs, filing of the

CWP-23585-2016

-6-

present petition is thus clearly an attempt of forum shopping and an abuse of the process of law. He submits that Permanent Lok Adalat (Public Utility Services), Sirsa failed to take into consideration the import of the proceedings that had been instituted by the respondent-applicant before the Civil Court before approaching the Permanent Lok Adalat (Public Utility Services), Sirsa and the prohibition imposed under the Legal Services Authorities Act, 1987 against the Permanent Lok Adalat (Public Utility Services), from taking cognizance of such disputes before it.

12. The averments contained in the present petition have remained uncontroverted. It is further pointed out that insofar as the principal amount alongwith interest is concerned, that already stood released in favour of the respondent and that the issue remains only with respect to the compensation that has been so awarded.

13. I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present petition.

14. It would essential to refer to certain provisions of the Legal Services Authorities Act, 1987 before appreciating merits of the arguments advanced by the petitioner. Section 2 (aaa) and Section 22-C of the Legal Services Authorities Act, 1987 are as under:

2. Definitions.—In this Act, unless the context otherwise requires,—

(aaa) “court” means a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law for the time being in force, to exercise judicial or quasi-judicial functions;]

22C. Cognizance of cases by Permanent Lok Adalat.—

(1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute:

Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:

Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees:

Provided also that the Central Government, may by notification, increase the limit often lakh rupees specified in the second proviso in consultation with the Central Authority.

(2) After an application is made under sub-section (1) to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.

(3) Where an application is made to a Permanent Lok Adalat under sub-section(1), it—

(a) shall direct each party to the application to file before it a written statement, stating therein the facts and nature of dispute under the application, points or issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the application;

(b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;

(c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.

(4) When statement, additional statement and reply, if

any, have been filed under sub-section(3), to the satisfaction of the Permanent Lok Adalat, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstances of the dispute.

(5) The Permanent Lok Adalat shall, during conduct of conciliation proceedings under sub-section(4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.

(6) It shall be the duty of the every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.

(7) When a Permanent Lok Adalat, in the aforesaid conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the parties, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement of the dispute, they shall sign the settlement agreement and the Permanent Lok Adalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned.

(8) Where the parties fail to reach at an agreement under sub-section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute.

15. A perusal of the aforesaid definitions clearly shows that for filing an application to the Permanent Lok Adalat (Public Utility Services), Sirsa any party to a dispute may, before the dispute is brought before any Court, make an application to the Permanent Lok Adalat (Public Utility Services) for the settlement thereof. Hence, the remedy of approaching the Permanent

CWP-23585-2016

-9-

Lok Adalat (Pubic Utility Services) may although be an additional remedy, however, it is not a fall back remedy. The jurisdiction of the Permanent Lok Adalat (Pubic Utility Services) has to be invoked as a first instance. Where any party to a dispute has already raised the dispute before any Court as defined under Section 2 (AAA), the jurisdiction of the Permanent Lok Adalat (Public Utility Services) cannot be invoked. Evidently, the Permanent Lok Adalat failed to take note of the aforesaid fundamental aspect which had been duly reflected in the pleadings before the Permanent Lok Adalat. Prima facie, the Permanent Lok Adalat (Pubic Utility Services) had no jurisdiction to adjudicate the application. The respondent-applicant has chosen not to object in the present proceedings or to contest the same. The same thus leaves little option with this Court but to accept the facts as undisputed.

16. Without going any further into the controversy and considering that the pleadings & arguments have remain uncontroverted or undisputed, the present petition is allowed.

17. The impugned award dated 01.08.2016 in case No. 2320 of 2015 passed by the Permanent Lok Adalat (Pubic Utility Services), Sirsa directing the petitioner to pay a compensation of Rs. 20,000/- to the respondent-applicant for the harassment meted out to him is set aside.

(VINOD S. BHARDWAJ)
JUDGE

MAY 29, 2023
Vishal Sharma

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