

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-24487-2016

Date of decision: 24.04.2023

DESH BHAGAT UNIVERSITY

.....Petitioner

VERSUS

PERMANENT LOK ADALAT PUBLIC UTILITY
SERVICES FATEHGARH SAHIB & ANR

.....Respondents

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

Present:- Mr. Arun Singla, Advocate
for the petitioner.

Ms. Gehna Vaishanavi, Advocate
for the respondent No.2.

VINOD S. BHARDWAJ, J. (Oral)

The present petition seeks quashing of the order dated 11.05.2016 (Annexure P-4) passed by respondent No.1-Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib whereby the application submitted by the respondent No.2-applicant seeking refund of the fee has been allowed to an extent of 50%.

2. Briefly summarized, the facts of the present case are that Ashok Duggal-son of respondent No.2 secured admission in the institute of the petitioner in the course of Bachelor of Technology (Aeronautical). The respondent No.2-applicant accordingly deposited an amount of Rs. 43,000/- towards admission fee vide receipt No.2014/15/19 dated 03.07.2014. The classes for the aforesaid course were to commence w.e.f. 01.08.2014, however, Ashok Duggal i.e. the

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son of respondent No.2 left the course and applied for refund of fee since he had secured admission at IMA, Chennai in a Merchant Navy Programme. The original certificates of son of the respondent No.2 were returned by the petitioner, however, the admission fee was not refunded. Accordingly, an application under Section 22 (C) of the Legal Services Authorities Act, 1987 was preferred before the Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib alongwith interest and damages.

3. The petitioner-University entered appearance before the Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib and raised various objections regarding the maintainability of the application and that there was no cause of action to invoke the jurisdiction of the Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib. On merits it was averred that the fee could have been refunded only in an eventuality where the candidate leaves the course before the commencement of the classes and the seat in question is filled up by another candidate. He contends that the son of the respondent No.2 had deposited the fee on 03.07.2014 and the classes commenced w.e.f. 01.08.2014. He attended classes for nearly 21 days before leaving the course on 25.08.2014. The seat remained vacant and was not filled up by any other candidate. Consequently, the petitioner institute is entitled to forfeiture of the admission fee so deposited, as per the terms & conditions contained in the prospectus. There was thus no illegality in the action of the petitioner-University.

4. Efforts to amicably resolve the dispute were undertaken by

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the Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib, however, the same could not fructify in an amicable resolution of the dispute. Consequently, the dispute was adjudicated in exercise of the powers under Section 22 (C) (8) of the Legal Services Authorities Act.

5. Upon consideration of the rival submissions advanced by the parties, the Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib partly allowed the application and directed the petitioner-University to refund 50% of the fee deposited vide receipt Ex.A-1 therein i.e. a sum of Rs. 21,500/- alongwith compensation to the tune of Rs. 5,000/- and Rs. 2500/- as litigation expenses. Aggrieved thereof, the present petition has been filed.

6. Learned counsel appearing on behalf of the petitioner reiterates the contentions noticed above and has argued that the petitioner-institute was entitled to forfeit the amount in case the candidate withdrew the admission after commencement of classes. He further contends that it was categorically stated in the prospectus that if the seat remains vacant and/or the application for withdrawal of the admission is made after the commencement of the classes, there shall be no refund. He submits that since both the aforesaid aspects are undisputedly not satisfied i.e. the classes had commenced and that the seat had also remained vacant, the respondent-applicant is not entitled to refund of the aforesaid amount. He further contends that the son of the respondent No.2 abandoned the course with his own will and the petitioner-University cannot be burdened for the loss incurred by it on account of voluntary decision taken by the son of the respondent No.2

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to leave the course midway.

7. Per contra, learned counsel appearing on behalf of respondent No.2 contends that the stands adopted by the petitioner-University is unfair and that an application for seeking refund of fee was submitted to the Regional Director of the petitioner-University. The aforesaid application was allowed by the petitioner-University. He contends that the respondents having allowed the refund of fee were thus being unjust and unfair in forfeiting the said amount. She further places reliance on the judgment passed by this Court in the matter of ***“Tarun Gautam versus Army Institute of Law Mohali and another”*** dated **13.03.2020** in **CWP-24971 of 2016** as well as the judgment of a Division Bench of this Court in the matter of ***“Aayush Gupta versus Panjab University”*** dated **12.07.2007** passed in **CWP No. 5793 of 2007**.

8. I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents available on record as well as judgments cited by the counsel for the respondent No.2.

9. It is evident that the Division Bench of this Court in the matter of ***Aayush Gupta (supra)*** had held that the refund cannot be denied without showing valid justification, loss or prejudice suffered by the University. The aforesaid Division Bench judgment was followed in the matter of ***Tarun Gautam (supra)***. However, insofar as the facts of the present case are concerned, the petitioner has contended that as the seat had remain vacant, hence, they did suffer a loss and therefore, the

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judgment in question would not be applicable to the petitioner.

10. Be that as it may, learned counsel does not dispute the fact that the application for seeking refund of fee was duly allowed by the petitioner-University and having allowed the application submitted by the respondent and permitted refund of fee, the petitioner-University waived its right to retain the aforesaid amount for its benefit.

11. The Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib adopted an equitable stand by directing 50% of the refund to the respondent. Section 22 (D) of the Legal Services Authorities Act, 1987 lay down the guiding principles for Permanent Lok Adalat (Public Utility Services) to conduct the proceedings. In exercise of its functions, the Permanent Lok Adalat is guided by the principles of natural justice, objectivity, fairness, equity and other principles of justice. The discretion once exercised by the Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib is not to be ordinarily interfered with unless the same is perpetuated by illegality, perversity, impropriety or unreasonableness. The aforesaid award does not suffer from any of the aforesaid vice. The exercise of discretion based on an assurance given by the petitioner-University waiving its right to retain the entire amount cannot be held to be bad. If the view taken by the Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib is sustainable & valid, the same is not to be ordinarily interfered with.

12. Accordingly, I find no infirmity or illegality in the award passed by the Permanent Lok Adalat (Public Utility Services),

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Fatehgarh Sahib. The same is thus affirmed.

The present petition is accordingly dismissed.

(VINOD S. BHARDWAJ)
JUDGE

APRIL 24, 2023

Vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No