

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

143

CWP-7947-2024 (O&M).
Date of Decision: 08.04.2024.

RAJ BANGA AND OTHERS

.. Petitioners

Versus

THE PERMANENT LOK ADALAT (PUBLIC UTILITY SERVICES),
UNION TERRITORY, CHANDIGARH AND OTHERS

... Respondents

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

Present: Mr. Joginder S. Dhankhar, Advocate,
for the petitioners.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the award dated
27.09.2023 passed by the Permanent Lok Adalat (Public Utility Services),
Union Territory, Chandigarh, in an application under Section 22-C of the
Legal Services Authorities Act, 1987.

2 Learned counsel appearing for the petitioners contends that
Rajesh Banga son of petitioners No.1 and 2, Raj Banga and Jagdish Kumar
Banga had suffered from cough and got treatment from Dr. Varinder Arya
of Arya Hospital, SCO No.801, Chandigarh Kalka Highway, Manimajra,
U.T. Chandigarh from 01.04.2017. Various tests were conducted and Dr.

Varinder Arya diagnosed that deceased Rajesh Banga suffered from Pleurisy i.e. fluid in the lungs as there was no improvement in the condition. The fluid was removed from the lungs of Rajesh Banga on 25.04.2017. It is alleged that the said removal had been carried out without following a standard procedure. Notwithstanding the said procedure, Rajesh Banga continued to complain of breathlessness and complications. As the condition of the patient continued to worsen, a request was made to refer the patient to the Government Medical College and Hospital, Sector 32, Chandigarh or to the Post Graduate Institute of Medical Education and Research (PGI), Chandigarh, however, the same was not acceded to and it was assured that the patient would be normal after 15-20 minutes. However, the petitioner called Ambulance from the Alchemist Hospital, Sector 21, Panchkula and on reaching at the Alchemist Hospital, Panchkula, patient Rajesh Banga was declared dead. An allegation was made that it was a case of medical negligence in carrying out the procedure and the treatment of Rajesh Banga. On the basis of various complaints submitted by the petitioner, a Committee was constituted by the Health Secretary, Chandigarh Administration. A report was submitted by the Enquiry Committee. The petitioners claimed that the said Enquiry Committee was biased and did not submit an impartial and independent report. A letter was thus sent by the petitioners to the Director, PGI, Chandigarh, to evaluate and provide the medical opinion, however, the authorities refused to do so for the reasons best known to them. Failing to find any appropriate response, an application was filed before the Permanent Lok Adalat (Public Utility Services), U.T. Chandigarh. He contends that the Permanent Lok

Adalat (Public Utility Services), U.T. Chandigarh had initiated conciliation proceedings which failed and that thereafter, it was incumbent upon the Permanent Lok Adalat (Public Utility Services), to adjudicate the issue on merits in terms of Section 22 (8) of the Legal Services Authorities Act, 1987. He submits that the Permanent Lok Adalat (Public Utility Services), had instead held that the proceedings are not maintainable since it involves intricate complicated questions of fact and law which would require the parties to lead evidence and subject the witnesses to the cross-examination and therefore, an advice was given to approach the Civil Court. He submits that the Permanent Lok Adalat (Public Utility Services), had asked for a report from the Committee afresh and the same was referred to the Medical Negligence Committee. A report was thereafter submitted by the Medical Superintendent, Government Medical College and Hospital, Sector 16, Chandigarh, on 06.03.2023. The said report was in contrast to the report furnished earlier. Hence, undisputedly there were two different reports which were in stark contrast to each other.

3 After having heard, the learned counsel for the petitioners, I am of the opinion that the Permanent Lok Adalat (Public Utility Services), Union Territory, Chandigarh, did not commit any error in advising the parties to appear before the Civil Court as such issue of medical negligence could not have been examined in summary proceedings considering that there were two opposite reports as regards the medical negligence. While the first report of the Committee exonerated the respondents for any medical negligence, the subsequent report dated 06.03.2023, indicted the said respondents. The aspect of medical negligence could thus not be

decided in the summary proceedings and it was essential that the witnesses are summoned and their evidence is recorded and they are required to be confronted with the report that has been prepared by them. The Permanent Lok Adalat (Public Utility Services), has not commented on the merits of the present case consciously so as to avoid any prejudice to either of the parties in the event of petitioners opting to take recourse to the alternative remedies.

4 Finding no illegality, perversity or impropriety or misappropriation of evidence and the circumstance brought before the Permanent Lok Adalat (Public Utility Services), Union Territory, Chandigarh, I find that no sufficient grounds exist for interference in the award passed by the Permanent Lok Adalat (Public Utility Services). The present petition is accordingly dismissed in *limine*. The petitioner, if so advised, may approach the Civil Court for seeking redressal of their grievances and compensation as directed by the Permanent Lok Adalat (Public Utility Services), Union Territory, Chandigarh.

April 08, 2024.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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