



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

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CWP-13196-2023

Date of decision: 06.08.2024

**BHAGWAT SAWRUP (SINCE DECEASED) THROUGH HIS LRS, PAWAN
KUMAR SONI**

.....Petitioner

VERSUS

PERMANENT LOK ADALAT AND OTHERS

.....Respondents

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

Present: - Mr. Rajan Bansal, Legal Aid Counsel

Mr. Munish Gupta, Advocate and
Mr. Akash Mehta, Advocate
for respondents No.2 and 3.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the order dated 03.07.2013 passed by the Permanent Lok Adalat (Public Utility Services), Hisar vide which the application of the petitioner was dismissed in default for want of prosecution as well as to the subsequent order dated 06.12.2021 passed on an application preferred by the petitioner for restoration.

2. Counsel for the petitioner contends that the original complainant-petitioner Bhagwat Sawrup Soni filed the above said complaint dated 21.10.2008 under the Legal Services Authorities Act, 1987 and the rules framed thereunder. The said application was filed on 21.10.2018 against the respondent for settlement of the medi claim. Thereafter, an FIR

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No. 198 dated 11.03.2011 was registered against the original petitioner-complainant under Section 302/148/149 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 wherein he alongwith his son and others accused were arrested and they were convicted for life imprisonment by the Additional Sessions Judge, Hisar vide judgment dated 19.07.2014. During the period of the aforesaid FIR when the original applicant/petitioner were in custody, the application preferred under Section 22-C of the Legal Services Authorities Act, 1987 was dismissed for want of prosecution vide order dated 03.07.2013. Bhagwat Sawrup Soni, the original applicant-petitioner died during his confinement in Central Jail No.1, Hisar on 27.07.2016. The Counsel representing the original complainant also did not appear in the case because of death of his wife and later even the Counsel passed away. The heirs of original complainant –petitioner-Bhagwat Sawrup Soni were apprised much later about the factum of the case having been instituted and about dismissal in default thereof whereupon an application for restoration of the said case was filed on 29.01.2018. The said application was also dismissed by the Permanent Lok Adalat (Public Utility Services), Hisar vide impugned order dated 06.12.2021.

3. Learned Counsel contends that the non-appearance on the part of the petitioner as well as Counsel was on account of circumstances beyond their control and that it was not a case of willful absent from the proceedings before the Court.

4. Counsel for the respondent opposes the prayer made by the petitioner and contends that there was an inordinate delay in moving the

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application for restoration of the said application preferred under Section 22-C and that the same has not been satisfactorily explained. He submits that the present writ petition deserves to be dismissed.

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

6. Upon consideration of the circumstances that the application in question was dismissed in default on account of non-appearance of the petitioner, I am of the opinion that the circumstances are indicative of the situations that were beyond the control of the original applicant-complainant and that consequential dismissal of the restoration application was not right on the part of the Permanent Lok Adalat (Public Utility Services) as the delay ordained in filing of the same was beyond the control of the parties.

7. The rights of the petitioner cannot be foreclosed on account of such circumstances. Consequently, the present writ petition is allowed. The impugned order dated 06.12.2021 as well as 03.07.2013 passed by the Permanent Lok Adalat (Public Utility Services), Hisar are set aside. The application is restored to its original number. The party shall appear before the Permanent Lok Adalat (Public Utility Services), Hisar on **04.09.2024** whereupon further proceedings shall be undertaken in accordance with law.

(VINOD S. BHARDWAJ)**JUDGE****AUGUST 06, 2024***Vishal Sharma*

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