

(2003) 04 P&H CK 0109

In the Punjab And Haryana At Chandigarh

Case No : Execution Application No. 7552 of 2002, Civil Miscellaneous No. 34582 of 2001 and C.W.P. No. 8234 of 2000 (O and M)

Mohinder Singh Gill

APPELLANT

Vs

Punjabi University

RESPONDENT

Date of Decision : 24-04-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 134 PLR 439

Hon'ble Judges : Viney Mittal, J; V.M. Jain, J

Bench : Division Bench

Advocate : Pankaj Gupta, for the Appellant; Deepak Sibal, for the Respondent

Final Decision : Allowed

Judgement

Vinay Mittal, J.—Petitioner-Mohinder Singh Gill had filed the present Civil Writ Petition No. 8234 of 2000 claiming retiral benefits. He was employed as a Junior Engineer in the Engineering Department of Punjabi University. He retired on reaching the age of superannuation on December 31, 1999. He claimed that the retiral benefits which was due to him were not paid. Accordingly he approached this court, through the present petition.

2. The aforesaid petition was referred to the Lok Adalat for the settlement of the dispute between the parties. Vide order dated September 24, 2001, the Lok Adalat noticed that after the filing of the writ petition all the retiral benefits have been released to the petitioner. However, since the petitioner claimed that there was inordinate and unexplained delay in releasing the aforesaid retiral benefits, therefore, he claimed the interest. Even though the claim of the interest made by the petitioner was contested by the respondent-University but still the Lok Adalat vide its order dated September 24, 2001 directed the respondent-University to allow the interest at the rate of 12 percent per annum on the aforesaid alleged delayed payment of the amounts under different heads.

3. The present execution application No. 7553 of 2002 was filed by the petitioner for executing the award of the Lok Adalat.

4. Even prior to the filing of the execution application, the respondent-University had filed a civil miscellaneous No. 38482 of 2001 whereby the objections to the order dated September 24, 2001 passed by the Lok Adalat were filed. In the aforesaid objections it was stated that since there was no settlement between the parties before the Lok Adalat, therefore, the Lok Adalat could not have adjudicated upon the matter in controversy. On merits of the controversy, the factum of the retiral benefits having been paid after any delay was also contested. Upon notice of the aforesaid civil miscellaneous application, the writ-petitioner/non-applicant filed a reply to the said application. The order of the Lok Adalat was sought to be defended by the non-applicant.

5. We have heard Shri Pankaj Gupta, the learned counsel for the petitioner and Shri Deepak Sibal, the learned counsel for the respondent-University and with their assistance have also gone through the record of the case.

6. It is not disputed by Shri Pankaj Gupta, the learned counsel for the petitioner that no settlement and been reached between the parties when the matter was pending before the Lok Adalat. On the basis of the aforesaid fact, Shri Deepak Sibal, the learned counsel for the respondent-University has maintained that by entering into the realm of adjudication, the Lok Adalat had in fact exceeded its jurisdiction. Shri Sibal has submitted that in fact the Lok Adalat had the jurisdiction merely to record the settlement between the parties but could not enter into the field of the controversial claim. On the other hand, Shri Pankaj Gupta, the learned counsel appearing for the non-applicant (writ petitioner) has submitted that the order of the Lok Adalat was absolutely just and fair and there was no justification for the respondent-University to challenge the same by way of objections.

7. We have given out thoughtful consideration to the entire matter and in our view the objections filed by the respondent-University deserve to succeed. It is not disputed that there was no settlement between the parties as regard to the controversy when the matter was before the Lok Adalat. A perusal of the order dated September 24, 2001 would further show that the Lok Adalat had in fact itself passed an order awarding the interest to the writ petitioner. As a matter of fact the said order passed by the Lok Adalat would actually amount to usurping the power of adjudication of the High Court.

This was not permissible in law. In fact two Division Bench judgments of this Court in F.A.O. 798 of 1999 *Kamal Mehta v. General Manager, Rajasthan Roadways Transport Corporation*, decided on November 7, 2001 and *Sham Lal Sharma v. State of Haryana* and Ors. (2002)131 P.L.R. 188 have already authoritatively pronounced that the Lok Adalat had the jurisdiction only to record the compromise and settlement between the parties. Under any circumstances the contested claims could not be adjudicated upon by the Lok Adalat. A similar

view was taken by one of us (Vinay Mittal, J.) in CM No. 17033 and CM 4377 of 2002 in CWP 5777 of 1995 decided on July 26, 2002.

8. In view of the aforesaid law on the point and the facts of the case, we have no hesitation in accepting the objections filed by the respondent-University and setting aside the order dated September 24, 2001 passed by the Lok Adalat. Accordingly, the aforesaid order dated September 24, 2001 is set aside and Civil Writ Petition is restored back to its original number.

9. In view of the above discussion and the fact that the order of the Lok Adalat has been set aside by us, the execution, application No. 7553 of 2002 has been rendered in-irretrievable.

10. After the restoration of the Civil Writ Petition to its original number by quashing the order of the Lok Adalat, we have heard the learned counsel for the parties in the main writ petition itself. It is not disputed that all the retiral benefits had since been paid to the petitioner. The surviving claim of the petitioner in the writ petition is only with regard to the interest on the payments which are alleged to be delayed. The factum of the payments being delayed is contested by the University. Since the disputed questions of facts are involved with regard to the claim of the petitioner to the interest on the said delayed payment, therefore, we deemed it appropriate to dispose of the writ petition by relegating the petitioner to seek his remedies before any other appropriate forum including the civil Court. Ordered accordingly.

11. There shall be no order as to costs.