

STATE OF PUNJAB AND ORS.

v.

SHRI GANPAT RAJ

SEPTEMBER 12, 2006

[ARIJIT PASAYAT AND LOKESHWAR SINGH PANTA, JJ.]

*Legal Services Authorities Act, 1987; Section 20:*

*Retiral benefits—Delay in payment—Writ petition—High Court referring it to Lok Adalat—Lok Adalat passing an award in favour of the employee—Challenged by the employer—Dismissed by High Court—On appeal, Held: If no compromise or settlement arrived at in the matter referred to Lok Adalat, no order could be passed by it—Since the case did not involve compromise or settlement, it could not have been disposed of by the Lok Adalat—Though, the High Court was right in holding that the disposal of the case by the Lok Adalat was not proper but it erred in affirming the order of the Lok Adalat on merit—High Court ought to have directed restoration of the writ petition filed by the employee for disposal by itself—Civil Writ Petition restored to its original position for disposal by the High Court—Directions issued.*

*Words and Phrases:*

*'Settlement' and 'compromise'—Meaning of in the context of Section 20 of the Legal Services Authorities Act, 1987.*

**Respondent—a retired employee filed a Civil Writ Petition in the High Court for issuance of writ of *mandamus* directing the employer-appellants to pay interest @ 18% on delayed payment of pension, its arrears and other retirement benefits. The writ petition was sent to Lok Adalat for settlement, and it was allowed by the Lok Adalat awarding interest @ 12% though no compromise arrived at between the parties. Against the award, a writ petition was filed by the appellants before the High Court. The High Court held that though the disposal by the Lok Adalat was not the proper course, yet on merits respondent employee was entitled to relief. Hence the present appeal.**

**Appellant-employee contended that the matter could not have been**

**A** disposed of by the Lok Adalat in view of the specific provisions contained in Section 20 of the Legal Services Authorities Act, 1987.

Allowing the appeal, the Court

**B** HELD: 1.1. The specific language used in sub-section (3) of the Legal Services Authorities Act, 1987 makes it clear that the Lok Adalat can dispose of a matter by way of a compromise or settlement between the parties. Two crucial terms in sub-sections (3) and (5) of Section 20 are “compromise” and “settlement”. The former expression means settlement of differences by mutual concessions. It is an agreement reached by adjustment of conflicting or opposing claims by reciprocal modification of demands.

**C** [29-A-B]

*Re: NFU Development Trust Ltd., [1973] 1 All ER 135, referred to.*

**D** 1.2. A compromise is always bilateral and means mutual adjustment. “Settlement” is termination of legal proceedings by mutual consent. The instant case did not involve compromise or settlement and could not have been disposed of by Lok Adalat. If no compromise or settlement is or could be arrived at, no order could be passed by the Lok Adalat. Therefore, the disposal of the Civil Writ Petition by the Lok Adalat is clearly impermissible. The High Court ought to have directed restoration of the writ petition for disposal in accordance with law. The Civil Writ Petition is restored to its original position for disposal by the High Court. [29-C-D; E; F]

**E** CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4089 of 2006.

**F** From the Judgment and Order dated 14.10.2004 of the High Court of Punjab and Haryana at Chandigarh in C.W.P. No. 16246/2004.

H.S. Munjral and Arun K. Sinha for the Appellants.

Brig, M.L. Khatter, Debasis Misra, Sunil Varma and Balraj Malliek for the Respondent.

**G** The Judgment of the Court was delivered by

**ARIJIT PASAYAT, J.** Leave granted.

**H** As noted by this Court in *State of Punjab and Ors. v. Phulan Rani and Anr.*, [2004] 7 SCC 555, a simple matter has unnecessarily been complicated as a result of which there has been inordinate delay in disposing of the matter.

Respondent filed Civil Writ Petition no. 943 of 2000 in the Punjab and Haryana High Court praying, *inter alia*, to issue a writ in the nature of mandamus directing the present appellants to pay interest @ 18% on delayed payment of pension, arrears of pension, DGRC, computation of pension and arrears of GPF arrears and other retirement benefits. The writ petition was sent to Lok Adalat for settlement being a pension matter and the matter was allowed on 4.3.2003 without any settlement compromise between the parties. It is to be noted that the appellants contested the claim and filed written statement to the writ petition. Lok Adalat awarded 12% interest for the delayed payments. A writ petition was filed by the appellants before the Punjab and Haryana High Court challenging the order dated 4.2.2003 assessed by the Lok Adalat in Civil No.943 of 2000. The same was dismissed holding that the petition was misconceived. Though the High Court accepted that the disposal by the Lok Adalat was not the proper course, yet it was held that on merits respondent was entitled to relief.

In support of the appeal, learned counsel for the appellant submitted that the matter could not have been disposed of by the Lok Adalat in view of the specific provisions contained in Section 20 of The Legal Services Authorities Act, 1987 (in short the 'Act').

*Per contra* learned counsel for the respondent submitted that the High Court has rightly proceeded on the basis that even if the matter could not have been disposed of by the Lok Adalat, there is nothing wrong, in the ultimate result holding that the respondent was entitled to relief. The matters which can be taken up by the Lok Adalat for disposal are enumerated in Section 20 of the Act which reads as follows:

"20. Cognizance of cases by Lok Adalats:-

(1) Where in any case referred to in clause (i) of sub-section (5) of Section 19-

(i)(a) the parties thereof agree; or

(b) one of the parties thereof makes an application to the Court, for referring the case to the Lok Adalat for settlement and if such Court is *prima facie* satisfied that there are chances of such settlement; or

(ii) the Court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat,

A The Court shall refer the case to the Lok Adalat:

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such Court except after giving a reasonable opportunity of being heard to the parties.

B (2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organizing the Lok Adalat under sub-section (1) of Section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination:

Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.

D (3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

E (4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

F (5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the Court, from which the reference has been received under sub-section (1) for disposal in accordance with law.

G (6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub-section (2), that Lok Adalat shall advise the parties to seek remedy in a Court.

H (7) Where the record of the case is returned under sub-section (5) to the Court, such Court shall proceed to deal with such case from the stage which was reached before such reference under sub-section (1)."

The specific language used in sub-section (3) of Section 20 makes it clear that the Lok Adalat can dispose of a matter by way of a compromise or settlement between the parties. Two crucial terms in sub-sections (3) and (5) of Section 20 are "compromise" and "settlement". The former expression means settlement of differences by mutual concessions. It is an agreement reached by adjustment of conflicting or opposing claims by reciprocal modification of demands. As per *Termes de la Ley*, "compromise is a mutual promise of two or more parties that are at controversy. As per *Bouvier*, it is "an agreement between two or more persons, who, to avoid a law suit, amicably settle their differences, on such terms as they can agree upon". The word "compromise" implies some element of accommodation on each side. It is not apt to describe total surrender. (See *Re NFU Development Trust Ltd.*, [1973] 1 All ER 135(Ch.D). A compromise is always bilateral and means mutual adjustment. "Settlement" is termination of legal proceedings by mutual consent. The case at hand did not involve compromise or settlement and could not have been disposed of by Lok Adalat. If no compromise or settlement is or could be arrived at, no order can be passed by the Lok Adalat. Therefore, the disposal of the Civil Writ Petition No. 943 of 2000 filed by respondent is clearly impermissible.

What was challenged in Writ Petition 16246 of 2004 to which this appeal relates related to the powers of disposal of cases by the Lok Adalat. In view of findings recorded that matter could not have been disposed of by the Lok Adalat, High Court ought to have directed restoration of writ petition filed by respondent i.e. Civil Writ Petition No. 943 of 2000 for disposal in accordance with law.

The inevitable result is that appeal has to be allowed. The impugned judgment is set aside. It cannot be lost sight of that the matter is pending for long. Let Civil Writ Petition 943 of 2000 be restored to its original position. The High Court is requested to dispose of the writ petition within a period of three months from the date of receipt of this order. The appeal is allowed in the aforesaid terms with no order as to costs.

S.K.S.

Appeal allowed.