

CASE NO.:
Appeal (civil) 4718 of 2004

PETITIONER:
State of Punjab and Ors.

RESPONDENT:
Phulan Rani and Anr.

DATE OF JUDGMENT: 03/08/2004

BENCH:
ARIJIT PASAYAT & C.K. THAKKER

JUDGMENT:
J U D G M E N T

(Arising out of SLP) No. 17738/2003)

ARIJIT PASAYAT, J

Leave granted.

A simple matter has unnecessarily been complicated as a result of which there has been inordinate delay in disposing of the matter.

A writ petition No.13555/1994 was filed by respondent No.1. Phulan Rani. She had claimed pension payable after demise of her husband who was employed as a Tubewell operator. The services of late Mohinder Singh Walia were terminated some time in the year 1983 on the ground that Tubewells Punjab Irrigation Department was transferred to the Punjab State Tubewell Corporation (respondent No.2 herein). However, the High Court of Punjab and Haryana directed re-appointment of late Mohinder Singh Walia and consequentially he was absorbed in the Punjab State Tubewell Corporation. According to Phulan Devi, her husband died on 18.12.1992 after retirement in 1989. The claim of pension having been rejected by the Corporation and the State, she filed a Civil Writ Petition No.13555/94 which came to be disposed of by Lok Adalat on 18.1.2000. The State of Punjab filed a review application taking the stand that it was not properly represented in the proceedings. In any event, there being dispute about entitlement of the pension, the writ petition could not have been disposed of by the Lok Adalat. The review petition was rejected on 8.9.2000. A writ petition was filed by the State of Punjab before the Punjab and Haryana High Court questioning legality of the disposal by the Lok Adalat. The writ petition was numbered as Civil Writ Petition No.4708/2002. The High Court held that even if it is accepted that the disposal by the Lok Adalat was not the proper course, yet on merits the respondent no.1 herein 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, Mr. S.D. Sharma, learned senior counsel for respondent No.1 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 she was entitled to pension.

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:

"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,

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.

(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.

(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.

(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.

(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.

(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.

(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 Writ Petition No. 13555/1994 filed by respondent No.1 is clearly impermissible.

What was challenged in Writ Petition 4708/2002 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 Phulan Devi i.e. Civil Writ Petition No. 13555/1994 for disposal in accordance with law.

Learned counsel for the respondent No.1 submitted that prevaricating stands have been taken by the State and the Corporation. It is really of no consequence in view of the clear language contained in sub-section (3) and (5) of Section 20.

The inevitable result is that appeal has to be allowed. The impugned judgment is set aside. It cannot be lost sight of that a matter relating to pension is pending for long. Let Writ Petition 13555/94 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.