HIGH COURT OF PUNJAB AND HARYANA

Bench: Hon'ble Mr. Justice Sanjay Vashisth

Date of Decision: May 13, 2024

CWP-21825-2016

Ms. Anita …Petitioner

Versus

The Presiding Officer, Labour Court, Ambala and another …Respondents

Legislation:

Section 10(1)(C), 25-F of the Industrial Disputes Act, 1947

Section 14 of the Limitation Act, 1963

Subject: Writ petition challenging the Labour Court's award declining the petitioner's claim for reinstatement in service on grounds of res judicata, following multiple proceedings regarding her termination from employment.

Headnotes:

Industrial Disputes Act, 1947 – Section 10(1)(c) – Reference to Labour Court – Principle of Res Judicata – Applicability – High Court examined the Labour Court's decision, which declined the petitioner's reinstatement claim based on res judicata, as previous matters had been adjudicated by the Central Administrative Tribunal (CAT) and the Central Government Industrial Tribunal (CGIT-LC). The High Court found that the principle of res judicata was incorrectly applied since the petitioner was not a Central Government employee, invalidating prior decisions of the CAT and CGIT-LC. The matter required adjudication on merits regarding the termination's legality under the Industrial Disputes Act. The impugned award was set aside, and the case was remanded for fresh adjudication by the Labour Court [Paras 1-25].

Jurisdiction – Central Administrative Tribunal (CAT) and Labour Courts – Inherent Lack of Jurisdiction – High Court observed that the CAT and CGIT-LC decisions regarding the petitioner's employment status were coram non judice (without jurisdiction). The CAT's earlier decision was deemed a nullity

as the Supreme Court's ruling in R.R. Pillai clarified that Unit Run Canteens' employees are not Central Government employees. Consequently, CAT's decision lacked jurisdiction, necessitating proper legal remedy under the Industrial Disputes Act, 1947 [Paras 9-16, 22-23].

Delay in Legal Remedy – Section 14 of the Limitation Act, 1963 – The Court acknowledged the petitioner's prolonged legal battle spanning over 20 years and protected her right to pursue a remedy under Section 14 of the Limitation Act. The petitioner had approached various forums under a bona fide belief of their jurisdiction, thus excluding the time spent in such proceedings from the limitation period [Paras 19-21].

Decision – Revival of Reference – Expeditious Adjudication Ordered – The High Court allowed the writ petition, setting aside the Labour Court's award and ordering the revival of the reference for fresh adjudication. The Court directed the parties to appear before the Labour Court on a specified date and mandated a decision within one year to mitigate further delays and alleviate the petitioner's prolonged suffering [Paras 24-26].

Referred Cases:

- R.R. Pillai (dead) through LRs v. Commanding Officer HQ S.A.C. (U) and others, (2009) 13 SCC 311
- Union of India & Ors. V. Mohamed Aslam & Ors., 2001 (1) SCT 709
- Hasham Abbas Sayyad v. Usman Abhas Sayyad, AIR 2007 SC 1077
- Kiran Singh and others v. Chaman Paswan and others, AIR 1954 SC 340

Representing Advocates:

Mr. R.K. Arora, Advocate, and Mr. Jugam Arora, Advocate, for the petitioner.

Mr. Vipan Sharma, Advocate, for Mr. S.M. Sharma, Advocate, for respondent No. 2.

SANJAY VASHISTH, J.

[1.] Instant writ petition has been filed by Ms Anita – workwoman, by challenging award dated 16.09.2015 (Annexure P-7), passed by the Labour Court, Ambala (hereafter referred to as, 'the Labour Court'), in Reference No. 18 of 2015, whereby her claim for reinstatement in service, in terms of the reference referred to it for adjudication, under Section 10(1)(c) of the Industrial Disputes Act, 1947 (hereafter referred to as, 'the 1947 Act'), has been declined on the ground of barred by the '*principle of resjudicata'*.
The petitioner/workwoman, being employee of respondent No.

2, i.e. the General Officer Commanding, Golden Line Canteen, Head Quarter, PH & HP (1) Sub Area, Canteen Cell, Ambala Cantt. (management), has been non-suited by holding that the claim raised by the workwoman has already been entertained by the Central AdministrativeTribunal, Chandigarh Bench, Chandigarh (hereafter referred to as, 'the CAT'), in OA No. 822/HR/2003, titled as 'Anita v. Union of India and others, decided on 20.01.2004 (Annexure P-1), whereby oral termination order dated 21.08.2003, has been held to be as per law.

[2.]In brief, claim of the petitioner/workwoman is that she is daughter of an Ex-serviceman, namely, S.S. Pati, and she was appointed as a Clerk-cum-Computer Operator-cum-Sales Girl in the month of November, 1998, in the Golden Line Canteen, Defence Cinema, Ambala Cantt., under the Central Stores Department, Ambala Cantt. She was drawing monthly salary of Rs.1,500/-, which was subsequently enhanced to Rs.2,900/- per month. She was allowed to mark her attendance w.e.f. 01.08.1999. Without regularizing her services, the workwoman was terminated on 21.08.2003, by an oral order. As per SOPs, the workwoman was required to be served with one month's notice and also an opportunity before termination of her services. However, at the time of termination, neither any notice nor salary in lieu thereof or retrenchment compensation was paid to her. Even the principle of '*last come first go*' has not been followed by the management, inasmuch as, persons junior to her, namely, Nirmal Singh, Mohinder Singh, Niranjan Singh and Prem Kumar etc., were retained in service. Not only this, the Management appointed certain new persons, after termination of the services of the petitioner/workwoman.

[3.]Challenging the said order of oral termination, dated 21.08.2003, the workwoman approached the CAT, by filing OA No. 822/HR/2003. However, without examining the position of law, the action of termination was held to be valid by the CAT, vide its order dated 20.01.2004 (Annexure P-1). For convenience, the relevant part of the order dated 20.01.2004 (Annexure P-1), is reproduced hereunder:-

"5. It is an admitted fact that the applicant is neither an exserviceman nor is the widow of an ex-serviceman. She is therefore, not entitled for employment in the unit run canteen. From the facts and circumstances of the case, it appears that she was given casual appointment on humanitarian grounds and her services have now been terminated by an oral order. Learned counsel for the applicant has not been able to cite any rule under which her services could not have been terminated. In fact, the applicant neither could produce any appointment letter nor any termination order. It is thus evident that she was appointed in the Canteen purely on casual basis and as such, she does not have any legal right for continuing in the service. The question of giving any show cause notice before termination, therefore, does not arise.

6. As a result, the OA turns out to be totally devoid of any merit and is accordingly dismissed.

No order as to costs.

	Sd/-
	20.01.2004
(S.K. Malhotra)	*(Justice O.P. Garg)*
Member (A)	*Vice*
Dated: January 20, 2004"	*Chairman*

[4.]Perhaps, under the impression that the establishment, i.e. Golden Lion Canteen, Ambala Cantt., is governed by the Central Government, vide notification No. L-14012/2/2007(IR(DU)), dated 23.07.2007, the Central Government while exercising its power under Section 10(1)(d) and Section 2A of the 1947 Act, referred the industrial dispute to the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh (hereafter referred to as 'the CGIT-LC'), being Case No. I.D. 1325/2007, registered on 30.07.2007, for adjudication of the following question:-

"Whether the action of the management of Golden Lion Canteen, Ambala Cantt in terminating the services of their workman Miss Anita w.e.f. 21.08.2003 is legal and justified? If not, to what relief the workman is entitled to?"

[5.] This time, the industrial dispute was again answered against the petitioner/workwoman by the CGIT-LC, by holding that "…...*the Central Government is not the competent Authority to make the present reference to this Tribunal"*. Accordingly, the said reference was ordered to be not maintainable by the CGIT-LC, vide award dated 24.09.2013 (Annexure P-2), relevant portion of which is reproduced as under:-

" It is the case of the workman itself that she was appointed as a Sales Girl on 01.08.1999 in the Golden Lion Canteen under the Canteen Department at Ambala Cantt. Thus she was an employee of the Unit Run Canteen. In R.R. Pillai Vs. Commanding Officer HQ S.A.C. (U) and others in Civil Appeal No. 3495 of 2005 the Hon'ble Supreme Court has specifically held that employees of the Unit Run Canteen are not Government servants. In view of this pronouncement of the Apex Court, the workman cannot be held to be Government servant. When it is so, the Central Government is not the competent Authority to make the present reference to this Tribunal. Hence the present reference is not maintainable and is answered accordingly. Let two hard copies and one soft copy of the Award be sent to the Central Government for further necessary action."

[6.]Since the CGIT-LC held that the workwoman is not an employee of the Central Government, she made another attempt by issuing a demand notice by demanding her reinstatement, with continuity of service and full back wages. It is thereafter, the matter was again referred for its adjudication to the Labour Court, vide Reference No. 18 of 2015, dated 18.02.2015. Thereupon, a claim statement dated 29.04.2015 was filed before the Labour Court. The said claim statement was replied by respondent No. 2-management, vide reply dated 14.05.2015 and then the workwoman also filed her replication dated 07.07.2015.

[7.] After noticing the industrial dispute again sought to be raised by the workwoman, as noticed by this Court in preceding paragraph No. 2 above,

the Labour Court proceeded to formulate altogether a different issue, vide order dated 07.07.2015, which reads as under:-

"i) Whether the reference is barred by the principle of res judicata as alleged in para No. 1 of the preliminary objections of the written statement? OPM ii) Relief."

[8.]The Labour Court opined that once the workwoman lost her matter before the CAT, again the same issue could not have been re-agitated by her before the Labour Court. For saying so, the Labour Court held that already CAT decided the dispute vide order dated 20.01.2004 (Annexure P-1), and said order would operate as *res judicata*. Lastly, the Labour Court held that as per the judgment of Hon'ble Apex Court in the case of **Union of India & Ors. v. Mohamed Aslam & Ors., 2001 (1) SCT 709 : (2001) 1 SCC 720**, the CAT was competent to entertain and decide the controversy. Therefore, the reference is held to be not maintainable, vide impugned award dated 16.09.2015 (Annexure P-7). It is worth noticing here that before the Labour Court, the workwoman had submitted that the order dated 20.01.2004 (Annexure P-1), passed by the CAT, is a nullity because it has no jurisdiction. Also argued that the decision of the CAT is not only erroneous on the point of law, but the same was also passed summarily, and therefore, the same has got no binding effect qua the proceedings conducted by the Labour Court afresh. For ready reference, the relevant findings recorded by the Labour Court, under Issue No. 1, vide its award dated 16.09.2015 (Annexure P-7), are reproduced as under:-

" I regret my inability to accept the aforesaid submissions of the learned AR of the workman. The authorities referred to above by the learned AR are not applicable to the facts of the present case and are on different footing. In the present case, as stated earlier, the CAT had competent to entertain and decide the controversy as per the judgment of the Hon'ble Supreme Court given in Mohamed Aslam's case (Supra). The aforesaid judgment of the CAT deciding the controversy finally between the parties on merits was never challenged by the workman. Therefore, the aforesaid judgment of the CAT certainly operates as res judicata. Accordingly, this issue is decided against the workman.

RELIEF

8. In view of my findings on issue No. 1, the present reference is hereby declined being barred by the principle of res judicata. Copies of award be sent to the authorities concerned."

[9.] Mr. R.K. Arora, learned counsel for the petitioner/workwoman, relies upon the three Judge Bench judgement of Hon'ble the Supreme Court in the case of **R.R. Pillai (dead) through LRs v. Commanding Officer HQ S.A.C. (U) and others, (2009) 13 SCC 311 : Law Finder DocId # 204608**, and submits that doubting correctness of the view taken by Hon'ble Apex Court in **Mohd. Aslam's case (supra)**, reference was made to a three-Judge Bench in **R.R. Pillai's case (supra)**, wherein it has been held as under:-

*"8. In the case of Aslam's case (supra) a Bench of this court proceeded on incorrect factual premises inasmuch as after noticing that the URCs are not funded from the Consolidated Fund of India, it went wrong in concluding that the URCs are funded by CSD as well as the articles were supplied by the CSD. Unfortunately, it did not notice that no such funding is made by the CSD. Further, only refundable loans can be granted by the CSD to URCs at the rate of interest laid down by it from time to time upon the application of URCs seeking financial assistance. URCs can also take from other NonPublic Funds. Further observation regarding supply is also not correct. URCs, in fact, purchase articles from CSD depots and it is not an automatic supply and relation between URCs and CSDs is that of buyer and seller and not of principal and the agent. This Court further went wrong in holding that URCs are parts of CSDs when it has been clearly stated that URCs are purely private ventures and their employees are by no stretch of imagination employees of the Government or CSD. Additionally, in Aslam's case (supra) reference was made to **Chandra Raha and Ors. V. Life Insurance Corporation of India (1995 Supp (2) SCC 611)**. The Bench hearing the matter unfortunately did not notice that there was no statutory obligation on the part of the Central Government to provide canteen services to its employees. The profits generated from the URCs are not credited to the Consolidated Funds, but are distributed to the Non Public Funds which are used by the units for the welfare of the troops. As per para 1454 of the Regulations for the Air Force, 1964 the losses incurred by the non public funds are not to be borne by the State.*

9. The factors highlighted to distinguish Chotelal's case (supra) in our considered opinion are without any material. There was no scope for making

any distinction factually between Aslam's case (supra) and Chotelelal's case (supra). In our view, therefore, Aslam's case (supra) was not correctly decided.

10. The question whether the URC can be treated as an instrumentality of the State does not fall for consideration as that aspect has not been considered by CAT or the High Court. Apparently, on that score alone we could have dismissed the appeal. But we find that the High Court placed reliance on Rule 24 to deny the effect of the appointment. From Rule 4 read with Rule 2 it is clear classification that all employees are first on probation and they shall be treated as temporary employees. After completion of five years they might be declared as permanent employees. They do not get the status of the Government employees at any stage. In Aslam's case (supra) CAT's order was passed in 1995. By that time 1999 Rules were not in existence and 1984 rules were operative."

Mr. R.K. Arora, thus, submits that the view earlier taken by Hon'ble Apex Court in the case of **Mohd. Aslam (supra)** was held to be incorrect. Hon'ble Apex Court also noticed that in the case of **Mohd. Aslam (supra)**, decision was taken by assuming that the persons employed in the Unit Run Canteens are the Central Government servants, being funded by the Canteen Stores Department (CSD). However, three Judge Bench of Hon'ble the Apex Court in its judgement in the case of **R.R. Pillai (supra)**, disagreed and changed the view by observing that employees of the Unit Run Canteens are not the government servants.

Surprisingly, still the Labour Court followed the view of **Mohd. Aslam's case (supra)**.

[10.] If this Court goes by the facts of the present case, it is found that the petitioner/workwoman was appointed in November, 1998 and she worked uptil 21.08.2003. Meaning thereby three months less to the total five years of service had already been rendered by her to the management and as per the alleged facts she was removed without any notice, notice pay and retrenchment compensation etc. Whether the said action is in violation of the provisions of law, i.e. Section 25-F of the 1947 Act, and also whether the principle of 'last come first go' has been adhered to or not, thus, requires to be adjudicated at some stage.

[11.] Unfortunately, the petitioner/workwoman is fighting for her rights, right from the time of her termination from service, i.e. 21.08.2003. On one pretext

or the other, may be under ill guidance of the concerned, she has been deprived from getting the legal right decided from a Court of Law. There cannot be any denial that the very purpose of enactment of the Industrial Disputes Act, 1947, is to protect the rights of labour class people, so that the tenure of employment may not be exploited with high handedness or arbitrary conduct of the employer, institute or establishment.

[12.] In the present case, no such adjudication has taken place in the last more than 20 years, though, the petitioner/workwoman has approached to three different Forums from time to time. This Court has no hesitation to observe that her claim could not be addressed or adhered properly under the correct provisions of law.

[13.] At the first instance, the CAT, vide its order dated 20.01.2004 (Annexure P-1), declined the relief by observing that the petitioner/workwoman is neither an Ex-serviceman nor a widow of the Exserviceman, therefore, she has no right to work in the Unit Run Canteen. Rather, her appointment is opined to be on humanitarian grounds only. Thus, by saying that she was appointed in the Canteen purely on casual basis, legal right to continue in service was denied to her. Surprisingly, nothing has been observed by the CAT, whether action of respondent No. 2 – management is justified or unjustified, at least by examining the aspect whether the principles of natural justice, i.e. affording the opportunity of hearing etc., have been complied with or not.

[14.] When second attempt was made by the petitioner/workwoman before the CGIT-LC, again after 10 years of her termination, by taking into account the judgement of the Hon'ble Apex Court in the case of **R.R. Pillai (supra)**, it was held by the CGIT-LC, vide its award dated 24.09.2013 (Annexure P-2), that employees of the Unit Run Canteens are not government servants. In other words, the petitioner/workwoman has been held, not the servant of the Central Government and, thus, she was nonsuited on the ground that the Central Government is not the competent authority to make the reference to the CGIT-LC. Thus, in the second round also nothing was commented about the sustainability of the termination order as per law.

[15.] It appears that immediately thereafter in the third attempt, another demand notice (Annexure P-3), was issued by the petitioner/workwoman, which was referred to the Labour Court for adjudication, under Section 10(1)(c) of the 1947 Act, vide Reference No. 18 of 2015, dated 18.02.2015. It was again unfortunate for the workwoman that by implication of the order dated 20.01.2014 (Annexure P-1), passed by the CAT, the same was held to be lawful and, while applying the principle of *res judicata*, the Labour Court

declined to answer the reference, without adjudicating the industrial dispute raised by the petitioner/workwoman on its merits, vide impugned award dated 16.09.2015 (Annexure P-7).

[16.] This Court is surprised to see that on the record, no finding has ever been recorded by any Judicial Forum to the effect that once the workwoman is held to be not a Central Government employee, by following the dictum of law laid down by the Hon'ble Apex Court in the case of **R.R. Pillai (supra)**, how the order dated 20.01.2004 (Annexure P-1), passed by the CAT, can be said to be valid one, and sustainable in the eyes of law. Rather, the proceedings before the CAT have to be treated as '***Coram non judice***', for all intent and purposes.

[17.]On the other hand, Mr. Vipan Sharma, learned counsel representing respondent No. 2 – management, while defending the impugned award dated 16.09.2015 (Annexure P-7), passed by the Labour Court, submits that same is worth to sustain, because already the CAT had decided the fate of the petitioner/workwoman, vide its order dated 20.01.2004 (Annexure P-1). Also argues that since the petitioner/workwoman has not assailed the order passed by the CAT, the same has attained finality, and is binding against her.

[18.] I have gone through the pleadings raised in the present writ petition, documents attached therewith, and the written statement filed in response thereto. After hearing the arguments thoroughly, and deeply examining the same, I find that the petitioner/workwoman has suffered a lot during all these years, without any substantive decision. The real question – whether action of respondent No. 2/management in terminating the services of the petitioner/workwoman is justified and sustainable in the eyes of law or not, still remained unanswered. Even at the first stage, the CAT vide order dated 20.01.2004 (Annexure P-1), has said that the petitioner/workwoman served for 4 years and 9 months, on the basis of compassion. However, nothing is observed in regard to compliance of the principles of natural justice by the employer/management. Even as per **R.R. Pillai's case (supra)**, it lacked with jurisdiction. In the second attempt, the CGIT-LC gave its opinion that reference by the Central Government is bad because employees of the Unit Run Canteens are not government servants. In the third attempt, nothing was addressed by the Labour Court also though by that time the period of twelve years had passed. Rather, placed the petitioner/workwoman to square one, i.e. back to the stage, when the CAT had dismissed her case (OA No. 822/HR/2003), vide order dated 20.01.2004 (Annexure P-1), for the first time.

[19.] In such circumstances, I am astonished for the reason that how for more than 20 years, i.e. by now, the petitioner/workwoman has been deprived to avail an appropriate legal remedy by making clarity of the complexed issues of law in a flexible manner. None of the orders, i.e. passed by the CAT, the CGIT-LC or the Labour Court, touches the principles of the Industrial Disputes Act, 1947 or refers to the same. If the dispute raised by the petitioner/workwoman was not to be adjudicated upon by these Forums, at least a poor workwoman could be guided or suggested to avail her remedy under the 1947 Act, especially when; it had been held that she is not a Central Government employee. Therefore, this Court cannot shut its eyes to ignore the beneficial legislations framed by the Legislatures for poor segment of the Society of the country. The basic backbone of the Constitution of India is that "***no one can be left remedy less***". In true sense, right from the year 2003, all the three Forums have, in fact, left the petitioner/workwoman on the mercy of nobody, and in a way remedy less also.

[20.] Before this Court also, learned counsel representing respondent No. 2/management argues that after such a long time, the petitioner/workwoman cannot be allowed to avail her remedy before any Forum. Even the Labour Court cannot entertain the reference made to it for adjudication by the Government, because date of receipt of Reference No. 18 of 2015, is 18.02.2015, whereas the alleged oral termination order was passed on 21.08.2003. Thus, it is argued that there is a huge delay and no relief can be granted to the workwoman. I am unable to accept such contention. Reasons with regard to the plight of the workwoman, have already been enumerated in detail in the earlier part of this judgement. Even Section 14 of the Limitation Act, 1963, protects the rights of litigants who are misguided, misled or under bona fide belief, approaches the wrong Forum. Section 14 of the Limitation Act, reads thus:-

*"**14. Exclusion of time of proceeding bona fide in court without jurisdiction.—***

(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature.

Explanation.—For the purposes of this section,—

(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;

(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding; (c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction."

[21.]Sub-section (3) of Section 2-A of the 1947 Act, prescribes that "*the application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1)"*. However, the provisions of Section 2-A of the 1947 Act were inserted and applied w.e.f. 15.09.2010, by Act No. 24 of 2010. Thus, the provisions contained in Section 2-A(3) of the 1947 Act would apply prospectively from 15.09.2010, and the same cannot be applied or given effect to retrospectively. In other words, the period of limitation for filing an application before the Labour Court against the order of termination, cannot be made applicable in the facts of the case in hand, where the petitioner/workwoman has been claiming that she was terminated from service on 21.08.2003.

[22.] Thus, I find that action of termination of the services, so far as case of the petitioner/workwoman is concerned, is worth to be examined on its merit. And, for the purpose of its examination, the whole exercise is to be done by

the Labour Court, whereas it has declined to entertain the industrial dispute in question, vide impugned award dated 16.09.2015 (Annexure P-7), by saying that the same is barred by the principle of *res judicata*.

[23.] For examining said finding, this Court is guided by the Division Bench judgement of this Court (Punjab and Haryana High Court) in the case of **Tarsem Lal v. Director, Rural Development and Panchayat Department and others, 2023 (3) R.C.R. (Civil) 148 : Law Finder DocId # 2164392**, wherein while dealing with the judgement of the Hon'ble Apex Court in the case of **Hasham Abbas Sayyad v. Usman Abhas Sayyad, AIR 2007 SC 1077**, it has been held as under:-

"9. It is interesting to note that, in the above civil suit, the plaintiff therein (present petitioner) had specifically pleaded that the suit land is Shamlat Deh, and, ejectment therefrom could only be ordered under Section 7 of the Act. Therefore, now the petitioner cannot turn around, and, say that the suit land is not Shamlat Deh, rather, it is Nazul land. As already mentioned above, the suit land does fall within the ambit of Shamlat Deh, as defined in Section 2(g) of the Act, therefore, vests within the Gram Panchayat. Section 13 of the Act imposes a specific embargo on the civil court to entertain any claim with regard to Shamlat land. Section 13 of the Act reads as under:-

*"13. **Bar of Jurisdiction**.-- No civil court shall have jurisdiction---*

(a) to entertain or adjudicate upon any question whether----

(i) any land or other immovable property is or is not shamlat deh;

(ii) any land or other immovable property or any right, title or interest in such land or other immovable property vests or does not vest in a Panchayat under this Act;

(b) in respect of any matter which any revenue court, officer or authority is empowered by or under this Act to determine; or

(c) to question the legality of any action taken or matter decided by any revenue court, officer or authority empowered to do so under this Act."

Perusal of the above extracted Section makes it clear that the civil court has no jurisdiction over the subject matter of dispute. Therefore, any order passed by the civil court would be coram-non-judice, thus a nullity. The above conclusion gathers support from a judgment of Hon'ble Supreme Court

passed in ***Hasham Abbas Sayyad v. Usman Abhas Sayyad, 2007 AIR (Supreme Court) 1077****, wherein it has been held as under:-*

"21. The core question is as to whether an order passed by a person lacking inherent jurisdiction would be a nullity. It will be so. The principles of estoppel, waiver and acquiescence or even res judicata which are procedural in nature would have no application in a case where an order has been passed by the Tribunal/Court which has no authority in that behalf. Any order passed by a court without jurisdiction would be coram non judice being a nullity, the same ordinarily should not be given effect to.

22. This aspect of the matter has recently been considered by this Court in Harshad Chiman Lal Modi v. DLF Universal Ltd. and Another, 2005(4) RCR (Civil) 260 : [(2005)7 SCC 791], in the following terms :

"We are unable to uphold the contention. The jurisdiction of a court may be classified into several categories. The important categories are (i) Territorial or local jurisdiction; (ii) Pecuniary jurisdiction; and (iii) Jurisdiction over the subject matter. So far as territorial and pecuniary jurisdictions are concerned, objection to such jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement of issues. The law is well settled on the point that if such objection is not taken at the earliest, it cannot be allowed to be taken at a subsequent stage. Jurisdiction as to subject matter, however, is totally distinct and stands on a different footing. Where a court has no jurisdiction over the subject matter of the suit by reason of any limitation imposed by statute, charter or commission, it cannot take up the cause or matter. An order passed by a court having no jurisdiction is nullity."

23. We may, however hasten to add that a distinction must be made between a decree passed by a court which has no territorial or pecuniary jurisdiction in the light of Section 21 of the Civil Procedure Code; and a decree passed by a court having no jurisdiction in regard to the subject matter of the suit. Whereas in the former case, the appellate court may not interfere with the decree unless prejudice is shown, ordinarily the second category of the cases would be interfered with."

Therefore, the judgment and decree dated 08.06.1989, passed by the Civil Court concerned, is beyond its jurisdictional competence and therefore, is a nullity." Similarly, in another Larger Bench judgement of the Hon'ble Apex

Court in the case of **Kiran Singh and others v. Chaman Paswan and others, AIR 1954 SC 340 : Law Finder DocId # 113300**, it has been held as under:-

"6. The answer to these contentions must depend on what the position in law is when a Court entertains a suit or an appeal over which it has no jurisdiction, and what the effect of Section 11 of the Suits Valuation Act is on that position. It is a fundamental principle well established that a decree passed by a Court without jurisdiction is a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings. A defect of jurisdiction, whether it is pecuniary or territorial, or whether it is in respect of the subject-matter of the action, strikes at the very authority of the Court to pass any decree, and such a defect cannot be cured even by consent of parties. If the question now under consideration fell to be determined only on the application of general principles governing the matter, there can be no doubt that the District Court of Monghyr was coram non judice, and that its judgment and decree would be nullities. The question is what is the effect of Section 11 of the Suits Valuation Act on this position."

[24.] This Court has no hesitation to say that while dealing with the issue of termination order passed in the case of a non Central Government employee, the finding recorded by the CAT in its order, dated 20.01.2004 (Annexure P-1), while deciding OA No. 822/HR/2003, is meaning less, as the same at best carries the status of nullity for all times, once Larger Bench in **R.R. Pillai's case (supra)** corrected the incorrect proposition of law.

Therefore, declining to answer the reference under Section 10(1)(c) of the 1947 Act, by the Labour Court, vide its impugned award dated 16.09.2015 (Annexure P-7), is liable to be set aside.

[25.] As a result of the above discussion, **present writ petition is allowed**. Accordingly, the impugned award dated 16.09.2015 (Annexure P-7), passed by the Labour Court, Ambala, is hereby set aside, and Reference No. 18 of 2015, dated 18.02.2015, titled as "Miss Anita v. The General Office Commanding, Golden Line Canteen", is ordered to be revived, requiring its adjudication afresh by the Labour Court.

[26.] Parties are directed to be present before the Labour Court, Ambala, on **28.05.2024**. Since already the petitioner/workwoman is awaiting the decision on law qua sustainability of the termination order, for the last two decades, any kind of further delay in final adjudication of the reference, would amount

further enhancing the miseries and agony of the workwoman, who is seeking adjudication of her legal rights. Therefore, the reference be decided within a period of one year from the date of appearance of the parties before the Labour Court.

Registry is directed to transmit copy of this judgement immediately to the Labour Court, Ambala, for information and compliance.