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SLP(C)No. 19759 OF 1998  
ITEM No.202

Court No. 1

SECTION IVB  
A/N MATTER

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.19759/1998

(From the judgement and order dated 30/06/1998 in CWP 3914/97  
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

PADAM MENON

Petitioner (s)

VERSUS

STATE OF PUNJAB & ANR

Respondent (s)

(With prayer for interim relief)  
( For Final Disposal )

Date : 12/04/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE R.C. LAHOTI  
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. Ashok Bhan,Adv.  
Mrs. Nanita Sharma,Adv.

For Respondent (s)  
Mr. E.C. Agrawala,Adv.  
Mr. Mahesh Agrawal,Adv.  
Mr. Rishi Agrawal,Adv.  
  
Ms. Jayshree Anand,Addl.Adv.Gen.(Punjab)  
Mr. G. Sivabalamurugan,Adv.  
Mr. Rajeev Sharma,Adv.  
Mr. RS Suri,Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed. No costs.

(Meena Sarin)  
AR Cum PS

(Prem Prakash)  
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2744 OF 2001  
Arising out of  
SPECIAL LEAVE PETITION (CIVIL) NO.19759 OF 1998

Padam Menon

Appellant

Versus

State of Punjab and Anr

Respondents

O R D E R

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Leave granted.

Facts giving rise to the filing of this appeal are that on a request made by the appellant for allotment of a plot on the ground that he is a practising advocate and a part time legal adviser to the Amritsar Improvement Trust and that he or his wife or dependant children do not own any other building or site, the Amritsar Improvement Trust vide Resolution No.306 dated 29th November, 1979 decided to allot plot No.A/105 measuring 250 sq. yards in Ajnala Road Area Development Scheme to him subject to the approval of the Government. The appellant had applied for allotment of a plot in his capacity as belonging to the special category, of 'professional' as per instructions issued by the Government under Rule 7b of the Utilisation of Land and Allotment of Plots by Improvement Trusts Rules, 1975. After the Resolution was passed by the Trust on 29.11.1979, his case was forwarded to the Government by Chairman of the Amritsar Improvement Trust through Regional Deputy Director, Local Bodies. The Government, however, vide Memo dated 7.10.1980 disapproved the proposal of the Trust. The appellant was intimated about the disapproval by the Government and in the meantime, plot No.A/105 was recommended for allotment to one Shri Pragat Singh. The recommendation for allotment of plot to Shri Pragat Singh was also rejected by the Government, which led to Shri Pragat Singh filing a writ petition in the High Court of Punjab and Haryana which was allowed and his case was forwarded to the Government for reconsideration whereafter plot No.A/105 was allotted in favour of Shri Pragat Singh. Thus, plot No.A/105 is not available for allotment to the appellant.

From a perusal of the record, we find that the disapproval by the Government of Punjab to the allotment of plot to the appellant was based on the ground that the appellant being a part time legal adviser to the Amritsar Improvement Trust, did not fall within the category of "Employees of the Improvement Trust", which category had been added vide Notification dated 30th June, 1976 (Annexure P-I in this paper book) and, thus, was not entitled to allotment of the plot against that category. The case of the appellant, however, was that he was covered by category 14 (Professionals) provided in Notification No. 9(M)-102-76/41321 dated 2nd

December, 1976 and being a professional, he was entitled to the allotment. This aspect of the case was obviously not considered by the Government. The Chairman of Amritsar Improvement Trust in his communication dated 24th May, 1990 addressed to the Secretary, Local Government Department, Punjab once again reiterated that the appellant though a part time legal adviser to the Trust is "also a practicing advocate, his case came within the ambit of category 14, being a professional", but, despite requests for reconsideration by the Improvement Trust, the Government did not relent. The appellant also addressed a number of letters to the Government for proper consideration of his case, but to no avail. The appellant, thereafter, filed a writ petition in the High Court of Punjab & Haryana, which was dismissed on June 30, 1998. The High Court has noticed that the appellant was an advocate on the rolls of the Bar Council of Punjab and Haryana and a regular practitioner, but went on to opine that since he was engaged by the Trust in 1975 as a part time legal adviser on fixed retainerhip of Rs.600/- p.m., he could not be treated "as an employee of the Trust". The High Court apparently overlooked the fact that the appellant was claiming allotment on the ground that he was a professional, and was covered in category 14. Aggrieved appellant is before us in this appeal by special leave.

Learned counsel for the Improvement Trust on directions of this Court has filed an affidavit on behalf of Amritsar Improvement Trust in which it is stated that a number of plots are still available for allotment though the plot allotted to the appellant A/105 is no longer available and subject to approval by the Government, one such plot can be allotted to him. We directed learned counsel representing the State of Punjab to seek instructions. Mrs. Jayshree Anand submits that in view of the Notification dated 2nd December, 1976 the case of the appellant does not fall in category 14 and that he was a part time employee of the Trust. We are unable to agree.

Category 14 of the 1976 notification reads:

"(14) - The category of professionals includes teachers, journalists, medical practitioners including Allopaths, Homoeopaths and Vaidis etc. etc."

The definition of Professionals as given in category 14 is an inclusive definition and not an exhaustive definition. To say that an advocate is not a professional is an unacceptable proposition. An advocate, like the appellant, regularly practising in the Courts of law and enrolled on the Bar Council would undoubtedly fall in the category of "professionals". It is not disputed by the State that the appellant is regularly practising as an advocate and that he has also been retained by the Trust to appear in their cases when required. Since, the appellant

had never sought allotment of the plot against the category reserved for "employees", and had only sought it on the ground that he is a "professional" advocate, the Government of Punjab was not justified in refusing approval to the allotment made by the Amritsar Improvement Trust vide Notification No.306 dated 30th November, 1979. The refusal of approval is not sustainable. The State Government, having refused approval on irrelevant grounds is directed to forthwith grant approval for allotment of plot to the appellant.

In the facts and circumstances of the case, the impugned order of the High Court cannot be sustained. Accordingly, this appeal succeeds and is allowed.

We direct that the appellant be allotted a plot measuring 250 sq. yards in Ajnala Development scheme or any other scheme under the Amritsar Improvement Trust at the rates which were applicable in September 1996. The appellant has already deposited Rs.2,000/- in two instalments. He shall be given credit for that amount while recovering the balance amount from him. The State Government should grant approval without any delay so that the plot identified by the Trust can be allotted to the appellant within eight weeks from the date of receipt of a copy of this order. No costs.

.....CJI.

.....J.  
( R.C. LAHOTI )

.....J.  
( BRIJESH KUMAR )

New Delhi;  
April 12, 2001.