

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case No. :- OWP No. 668/2017

**Reserved on : 01.12.2023
Pronounced on : 30.12.2023**

**Management of Ambuja Cements
Ltd. Jammu Branch Office, Kamla
Bhawan, 138 Adarsh Vihar, Sainik
Colony, Jammu, J & K through
Its Attorney Holder Rajneesh
verma S/o Rajpal Singh Verma
R/o SCO 79 Sector 5, Panchkula,
Haryana**

.....Petitioner(s)

Through: Mr. Muddasir Zubair, Advocate

Vs

- 1. Industrial Tribunal Cum Labour Court,
J & K Govt. Srinagar/Jammu**
- 2. Ashok Suri S/O Late M.L Suri
R/o 41 B/B, Gandhi Nagar, Jammu**

..... Respondent(s)

Through: Mr. Vipin Gandotra, Advocate

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

**J U D G M E N T
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- 1.** The petitioner through the medium of the instant petition under Article 226 of the Constitution of India, is seeking following reliefs:

- i. A Writ in the nature of Certiorari, quashing the impugned award dated 02.08.2016 passed by Respondent No. 1- Industrial Tribunal;**
- ii. A Writ in the nature of Mandamus, commanding upon the respondents to withhold the execution of the impugned award passed by the learned Tribunal against the petitioner company.**

Arguments on behalf of petitioner

2. The learned counsel for the petitioner has submitted that the petitioner company deals with the cement business having established office at Jammu and has established procedures to manage and administer its staff. It is further submitted that the recruitment procedure of the company is elaborative and well defined and is made through advertisements and other means from time to time seeking appointment of various persons in different cadres as per their suitability. It is also submitted that once the recruitment is made, necessary records are preserved by the management and social security benefits like insurance gratuity, and CP fund is being generated and credited in favour of the employees.
3. It is specific case of the learned counsel for the petitioner that the respondent No.2 has raised unlawful and unsubstantiated claim against the petitioner company on the self assumed notion that he was appointed as Driver in the said company and subsequently, his services have been terminated in violation of applicable laws and without prior notice and the entire contention has been rebutted by the petitioner company before the learned Tribunal.
4. Learned counsel has submitted that the Respondent No.2 has raised the fictitious claim before the Industrial Tribunal on the assumption that he was appointed as Driver in the company with effect from 01.11.1998 to 20.10.2009 and was terminated by Branch Manager without following the

procedure and as also not paying him the necessary perks. It is further submitted that the Respondent No.2 was never enrolled in the employee rolls and as such, could not secure the status of social benefits like gratuity, CP. Fund, Insurance etc.

5. It is further submitted that the respondent No.2 could not substantiate his claim by producing the appointment order and the termination order which would have indicated and confirmed his contention.
6. It is contended by learned counsel for the petitioner that the Branch Manager concerned in his personal capacity used to retain the Respondent No. 2 as Driver and subsequently used to pay him out of his own pocket, whenever need arose.
7. It is submitted that the Learned Tribunal has passed the impugned award in absence of the substantial documents as there is no confirmed official attendance of Respondent No. 2, neither any official communication showing his pay, promotions, grades etc nor his position in the employee rolls.
8. The petitioner company has challenged the impugned award on the following grounds:
 - a. ***That impugned award is bad in law in as much as the reference made vide SRO-80 dated 14.03.2011 is beyond the scope reference and in contradiction of official record and facts of the petitioner company. The reference made by the competent authority had ignored the fact that the respondent No.2 was never appointed as Driver in the said company as such, rendering it as Industrial Dispute seeking subsequent relief against the company is unwarranted,***

unlawful, and without jurisdiction, as such being in competent under law and needs to be set-aside.

- b. That the Tribunal mis-appreciated the basic contention and controversy raised in the claim by respondent No.2. The learned tribunal did not return finding that how come in absence of any official record respondent No.2 could be treated as employee of the petitioner company. The learned tribunal also overlooked the fact that the respondent No.2 haven't produced either the appointment order or termination order from the company and what prevented the respondent No.2 to produce the same. The said fact also confirmed the contention of petitioner that respondent No.2 ultimately could be treated personal Driver hired by branch manager from time to time without any official status of the petitioner. The learned tribunal without appreciating these basic facts and law passed the impugned award in violation of established principles of law and justice as such, award being un-tenable in law and needs to be set-aside.*
- c. That the learned tribunal failed to appreciate the substantial evidence so produced by the petitioner company. The company on oath deposed before the learned tribunal and produced the official record which testified the fact that respondent No.2 has never been appointed as driver in the company and as such, his terminating services from the company does not arise. The reference of the learned labour court as also award passed by the Learned Tribunal is in excess of jurisdiction as such, award being bad in law needs to be set-aside.*
- d. That the learned tribunal failed to appreciate that contention of the company to the extent that the respondent No.2 even if assumed to have rendered his services could be treated a contract between him and the manager as in their personal capacity. At the most it is a private contract the breach of which could be remedied through specific performance suit instead rendering or treating it Industrial dispute. The learned tribunal on this mistaken notion of fact and law passed the impugned award against the petition company which is bad in law and needs to be set-aside.*

Arguments on behalf of respondents

9. *Per contra*, learned counsel for Respondent No. 2 has submitted that he had been appointed as driver in the company after proper scrutiny of documents and he worked in the company as driver from 01.11.1998 to 20.10.2009. As such, the company is under legal obligation to provide him gratuity, CP Fund which is being generated and credited in favour of the other employees but a different yard stick has been applied in his case. It is further submitted that the services of Respondent No. 2 were terminated without any prior notice, thus denying him the opportunity of being heard.

10. **Heard learned counsel for the parties at length and perused the material available on record.**

Legal Analysis

11. The claim of the petitioner company that the respondent was the personal driver of the concerned Branch Manager, who engaged him in his personal capacity and was being paid salary from his own pocket is not corroborated by any cogent evidence and cannot be relied upon. The petitioner company had failed to produce the concerned Branch Manager before the Tribunal, and as such, the contention of the petitioner-company cannot be accepted in absence of any cogent evidence especially when this aspect of the matter has been gone in detail by the Tribunal.

12. From the record, it appears that the case of the company revolves around the fact that the Respondent No. 2 was not its employee, rather he was working with the Branch Manager in the capacity of a private employee and was being paid out of his own pocket. The Tribunal after appreciating all the material facts on record has recorded a finding that **if the Branch Manager had engaged the said respondent as his own Driver, then the Branch Manager should have taken the said respondent along with him when the said Branch Manager was transferred to another Branch of the company and rather the facts reveal that the said respondent has worked with four Branch Manager over the years continuously, which leads to an irresistible conclusion that the Respondent No. 2 was an employee of the petitioner-company and not of that Branch Manager as alleged by the petitioner company.**
13. Had the contention of the petitioner-company been true, then the company ought to have corroborated the said fact by leading cogent evidence and the statement of the most important witness, i.e., concerned Branch Manager with whom the said respondent was working, but the statement of the most important witness, i.e., Branch Manager has not been recorded, which leaves the story projected by the petitioner company with little credibility. It appears that this story has been projected with a view to defeat the rights of the Respondent No. 2, whose services have been terminated in an illegal manner without following due process of law

and that too, without issuing any notice to him. The learned Tribunal has dealt this issue in detail and has recorded a finding which is based on appreciation of evidence and recorded in favour of Respondent No. 2 which cannot be interfered.

- 14.** The contention of the petitioner-company that the Respondent No. 2 is not its employee, can further be falsified on the ground that one of the vehicles (Scorpio JK02AD 4449) met with an accident in September, 2009, which was being driven by Respondent No. 2 and the company got the insurance claim from Oriental Insurance Company, Gandhi Nagar, Jammu in the month of October, 2009. It is specific stand of the Respondent No. 2, which has not been controverted by the company that the said vehicle was insured with the company at Ropar Punjab and the company got the case settled at Jammu Branch and received the claim, wherein, the name of the Respondent No. 2 has been entered in the claim application as a Driver of the said company, which clearly indicates that the Respondent No. 2 was the Driver of the petitioner company. This specific stand has been taken by the Respondent No. 2 by way of a rejoinder to the objections before the Tribunal, which was not controverted by the petitioner-company. The further stand has been taken by the Respondent No. 2 that the salary was being paid to him by the petitioner-company and not from the pocket of the so called Manager and the said

stand was also not controverted by the company nor any evidence to the contrary was led before the Tribunal.

15. It is trite that the burden to prove that a claimant was in the employment of a particular management, primarily lies on the person who claims to be so but the degree of proof, so required, varies from case to case. It is neither feasible nor advisable to lay down an abstract rule to determine the employer-employee relationship. It is essentially a question of fact to be determined by having regard to the cumulative effect of the entire material placed before the adjudicatory forum by the claimant and the management.

16. It is true that in the instant case, the respondent did not produce the letter of appointment and the termination order but he has been successful in producing the evidence in support of his contention being employee of the petitioner company. The witnesses produced by Respondent No. 2, in one voice has supported the claim of the said respondent that he worked there continuously for about 11 years and after serving there, his services were terminated without any notice and following due procedure as envisaged under law.

17. Thus, from the evidence of the parties and other relevant material, it is manifestly clear that the petitioner was infact employed in appellant-company as a Driver and has worked there continuously for about eleven years before his termination from service. The plea taken by the company that the Respondent No. 2 is not its employee, does not

appear to be a credible story of the appellant-company which aims to victimize the said respondent, who has worked in the appellant-company for eleven long years.

18. In the instant case, the petitioner is seeking the Writ in the nature of Certiorari for quashment of the award passed by the tribunal below. In order to determine when can an award passed by the Tribunal be questioned/challenged. It is very imperative to see the scope of this Court to exercise the writ jurisdiction by way of Certiorari.

19. Reliance is placed upon the judgment of the Apex Court of India in case titled **“Yakoob vs. K.S Radhakrishnan”** reported in AIR 1964 SC 477 wherein, the following principles were culled out while dealing with the Certiorari jurisdiction in questioning the award passed by the Tribunal. The relevant para is reproduced as under for further reference:

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the court or tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the court exercising it is not entitled to act as an appellate court. This limitation necessarily

*means that findings of fact General Manager, Electrical ... vs Sri Giridhari Sahu on 12 September, 2019 Indian Kanoon reached by the inferior court or tribunal as a result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. **An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the tribunal, and the said points cannot be agitated before a writ court.** It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised (vide Hari Vishnu Kamath v. Ahmad Ishaque, Nagendra Nath Bora v. Commr. of Hills Division and Appeals and Kaushalya Devi v. Bachittar Singh.*

- 20.** The principles which have been laid down by the Apex Court in judgment mentioned (supra) questioning the award passed by the Tribunal do not cover the case of the petitioner company as it is not the case where the order has been passed by the Tribunal without jurisdiction or in excess of jurisdiction or as a result of failure of exercise jurisdiction. It is not even a case where the Tribunal has acted illegally or improperly or has recorded a finding on no evidence.

- 21.** Consequently, this Court is of the view that the findings of the fact recorded by the learned Tribunal cannot be challenged by way of Writ of Certiorari on the ground that the material evidence produced before the Tribunal was insufficient or inadequate to sustain the impugned finding. It goes without saying that the adequacy or sufficiency of the evidence led on a point and inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal and the said points by way of no stretch of imagination, can be agitated before the Writ court.
- 22.** Thus, I hold that the case of the petitioner does not fall within the ambit of the principles culled out while dealing with the scope of Certiorari jurisdiction in questioning the award passed by the Tribunal.
- 23.** It is settled proposition of law that an error of law which is apparent on the face of the record can be corrected by a Writ but not an error of fact, however grave it may appear to be. In regard to the finding of the fact recorded by the Tribunal, the scope of issuance of the Writ of Certiorari is limited to the extent if it has been established beyond reasonable doubt that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence or had erroneously admitted inadmissible findings which has influenced the impugned findings.
- 24.** Similarly, if a finding of fact is based on no evidence, it would be regarded as an error of law which can be corrected

by a Writ of Certiorari. Both the exceptions which have been carved out by the Apex Court in judgment mentioned (supra) are not applicable in the instant case, which would warrant this Court to exercise the jurisdiction by way of Writ of Certiorari. This Court cannot interfere with the finding of the fact recorded by the Tribunal on the ground that the relevant and the material evidence adduced before the Tribunal is insufficient or inadequate to sustain the impugned finding. The law has been settled at naught by the Apex Court in various authoritative pronouncements with respect to the adequacy or sufficiency of evidence led on a point and the inference of a fact to be drawn from the said finding are the exclusive jurisdiction of the learned Tribunal and the said point cannot be agitated before this Court by invoking the Writ jurisdiction.

- 25.** In the instant case, the learned Tribunal had gone into the entire evidence and has held the termination of Respondent No. 2 as illegal by setting aside the same and subsequently reinstating the petitioner along with all back wages from the date of termination up to the date of actual superannuation of the petitioner along with all retiral benefits as well.
- 26.** This Court can only interfere with the award of the Tribunal provided the same is perverse or the Tribunal has acted on no evidence, which is not the case in hand as the award passed by the Tribunal is justified, well reasoned and in consonance with the law laid down by the Hon'ble Apex Court.

27. This Court while sitting in its extraordinary writ jurisdiction under Article 226 or supervisory jurisdiction under Article 227 does not sit in appeal against the award passed by the Tribunal and it would be loath to interfere unless the award of the Tribunal suffers from the perversity or it suffers from an error apparent on face of the record. The legal position in this regard is succinctly put by the Apex Court in Paragraph 81 of the Judgment in **“Gujarat Steel Tubes Ltd. Vs. Gujarat Steel Tubes Mazdoor Sabha”** reported in (1980) 2 SCC 593 which is reproduced as under for facility of reference:

“81..... The second limb of the argument was that a writ of certiorari could not be issued to correct errors of facts. In this connection after affirming the ratio in Engineering Mazdoor Sabha v. Hind Cycle Ltd., this Court observes that what is important is a question of law arising on the face of the facts found and its resolution ex facie or sub silentio. The Arbitrator may not state the law as such; even then such acute silence confers no greater or subtler immunity on the award than plain speech. We do not dilate on this part of the argument as we are satisfied that be the test the deeply embedded rules to issue certiorari or the traditional grounds to set aside an arbitration award 'thin partition do their bounds divide' on the facts and circumstances of the present case. Broadly stated, the principle of law is that the jurisdiction of the High Court under Article 226 of the Constitution is limited to holding the judicial or quasi-judicial tribunals or administrative bodies exercising the quasi-judicial powers within the leading strings of legality and to see that they do not exceed their statutory jurisdiction and correctly administer the law laid down by the statute under which they act. So long as the hierarchy of officers and appellate authorities created by the statute function within their ambit the manner in which they do so can be no ground for interference. The power of judicial supervision of the High Court under Article 227 of the Constitution (as it then stood) is not greater than those under Article 226 and it must be limited to seeing that a tribunal functions within the limits of its authority

[see Nagendra Nath Bora & Anr. v. The Commissioner of Hills Division & Appeals, Assam & ors.(a)]. This led to a proposition that in exercising jurisdiction under Article 226 the High Court is not constituted a Court of appeal over the decision of authorities, administrative or quasi-judicial. Adequacy or sufficiency of evidence is not its meat. It is not the function of a High Court in a petition for a writ under Art 226 to review the evidence and to arrive at an independent finding on the evidence. [See State of Andhra Pradesh v. S. Shree Rama Rao] A constitution Bench of this Court in P. H. Kalyani v. M/s-. Air France, Calcutta) succinctly set out the limits of the jurisdiction of the High Court in dealing with a writ petition. It was said that in order to justify a writ of certiorari it must be shown that an order suffers from an error apparent on the face of the record. It was further pointed out that in the finding of fact is made by the impugned order and it is shown that it success from an error of law and not of fact, a writ under Article 226 would issue, and, while so saying, the decision in Nagendra Nath Bora's case was affirmed. Following the aforementioned decision, the Gujarat High Court in Navinchandra Shakerchand Shah v. Manager, Ahmedabad Coop. Department Stores Ltd. observed that the amended Article 226 would enable the High Court to interfere with an Award of the industrial adjudicator if that is based on a complete misconception of law or it is based on no evidence or that no reasonable man would come to the conclusion to which the Arbitrator has arrived.

28. Similarly, In **“Krushna Narayan Wanjari vs. The Jai Bharti Shikshan Sanstha, Hinganghat through its Secretary & Anr.”**, reported in Civil Appeal No. 5965-5966 of 2016 (arising out of SLP (C) No. 28170-28171 of 2015), the Hon’ble Supreme Court at Para 4 has held as under:

“4..... Having regard to the fact that the documents were produced before the High Court, we are of the view that the High Court was not justified in refusing to look into the same. After all, the Industrial Court had looked into the entire materials and had awarded the salary for the disputed period. Unless the approach is wholly perverse in the sense that the Tribunal acted on no evidence, the High Court under Article 226/227 is not justified in interfering with the award. It is not a court of first appeal to reappreciate the evidence. Therefore, the appeal is allowed and the

impugned orders are set aside and the order dated 14.03.2012 passed by the Industrial Court, Nagpur Bench, Maharashtra is recorded”.

- 29.** It is also established principle of law that the Court while exercising writ jurisdiction under Article 226 of the Constitution of India cannot go into the disputed questions of facts. This Court while exercising the writ jurisdiction cannot go into a disputed question of fact as all the questions of facts have been gone in detail by the Tribunal by adducing the evidence and passing a reasoned order. Reference in this regard can be made to **U.P. State Bridge Corporation v. U. P. Rajya Setu Nigam** reported in 2004 (4) SCC wherein Hon'ble the Supreme Court in paragraph 14 has held as under:

"14. Finally, it is an established practice that the Court exercising extra-ordinary jurisdiction under Article 226 should have refused to do so where there are disputed questions of fact. In the present case, the nature of the employment of the workmen was in dispute. According to the appellant, the workmen had been appointed in connection with a particular project and there was no question of absorbing them or their continuing in service once the project was completed. Admittedly, when the matter was pending before the High Court, there were 29 such projects under execution or awarded. According to the respondent-workmen, they were appointed as regular employees and they cited orders by which some of them were transferred to various projects at various places. In answer to this the appellants' said that although the appellant corporation tried to accommodate as many daily wagers as they could in any new project, they were always under compulsion to engage local people of the locality where work was awarded. There was as such no question of transfer of any workman from one project to another. This was an issue which should have been resolved on the basis of evidence led. The Division Bench erred in rejecting the appellants submission

summarily as also in placing the onus on the appellant to produce the appointment letters of the respondent-workmen."

30. This Court in a judgment titled **“J&K Industrial & Technical Consultancy Organization vs. R.K Baskhi & Ors.”** reported in 2018 (2) JKJ 501 (HC), has observed as under:

“10..... Law is clear that disputed questions of facts cannot be adjudicated in writ petition, unless there is some grave perversity in the award. In present case, I do not find any perversity in the finding of facts recorded by the Tribunal.

15..... Industrial Disputes Act is welfare legislation and is intended to protect and safeguard welfare and interest of large work-force working under various employers including private managements. Thus, having regard to legislative, harmonious construction of provisions is necessary.

16..... I, therefore, see no perversity in the findings recorded by the Industrial Tribunal necessitating interference by this Court in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. It is settled principle of law that the scope of judicial review on award passed by the Industrial Tribunal is very limited to where labour Court commits serious error of law or findings recorded suffers from error apparent on the face of it. The Writ Court does not act as a Court of Appeal against the award passed by the Industrial Tribunal.”

31. This law is settled by the Apex Court in various authoritative pronouncements that under the Industrial Disputes Act, the labour court exercises the powers and jurisdiction of a Civil Court and orders passed by the Civil Court can only be challenged before the High Court by way of a petition under Article 227 of the Constitution of India. Pursuant thereto, from such a challenge, no intra court appeal would lie. A writ petition which assails the order of Civil Court in High Court has to be construed and understood in all facts and

circumstances to be a challenged under Article 227 of the Constitution. When such is the case, the Court has to examine the allegations/averments made in the petitioner and the relief claimed therein as to whether the petitioner wants to exercise its supervisory power under Article 227 or its jurisdiction under Article 226 of the Constitution of India. If the challenge is limited only to the correctness or otherwise of the award, then it has to be considered that the powers under Article 227 of the Constitution of India has been invoked because the cause has not been initiated for the first time before the High Court. If in addition to the correctness of the award, the petitioner seeks to challenge the vires of any other provision of Industrial Disputes Act or of any other provision or the very jurisdiction of the labour court to pass the award or on the ground that same has suffered from error or law apparent on the face of record, then it has to be considered that powers under Article 226 has been invoked.

- 32.** In a catena of decisions, the Hon'ble the Supreme Court culled out the principles governing difference between petitions under Article 226 of the Constitution of India and supervisory jurisdiction under Article 227 of Constitution of India.
- 33.** In **State of Maharastra v. Labour Law Practitioners Assn.** reported in 1998 (2) SCC 688, the Hon'ble Supreme Court has held as under:

"5. That there is not much difficulty in holding that the Labour Court performs judicial functions and is a Court. The Labour Court adjudicates upon disputes that, had it not been for the Industrial Disputes Act, the Bombay Industrial Relations Act and the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, would have been within the jurisdiction of the ordinary civil courts to decide, although the ordinary civil courts may not be able to grant all the reliefs that are contemplated by these Acts. The Labour Courts are, therefore, courts and decide disputes that are civil in nature....."

- 34.** Again in *Ram Krishan Fauji v. State of Haryana* reported in 2017 (5) SCC 533, the Hon'ble Supreme Court has held that it is beyond any shadow of doubt that the order of the civil court can only be challenged under Article 227 of the Constitution and from such challenge no intra court appeal would lie and in other cases, it will depend upon the other facts as have been enumerated therein. In paragraph 41, the Hon'ble Supreme Court has held as under:

"41. We have referred to these decisions only to highlight that it is beyond any shadow of doubt that the order of civil court can only be challenged under Article 227 of the Constitution and from such challenge, no intra-court appeal would lie and in other cases, it will depend upon the other factors as have been enumerated therein."

- 35.** In the instant case, it is not the case of the petitioner that he has questioned the award by invoking the powers under Article 227 of the Constitution rather he has filed the present petition under Article 226 of the Constitution. Thus, the challenge of the petitioner fails in the light of the law laid down by the Apex Court in catena of judgments culling out the principles governing the petitions filed under Article 226 of the Constitution of India and the petitions filed under

Article 227 of the Constitution of India exercising supervisory jurisdiction.

Conclusion

36. In the light of what has been discussed hereinabove coupled with the settled legal position, I am of the view that the tribunal has passed a well reasoned award which does not require any interference by this Court. Thus, the order of the tribunal dated 02.08.2016 is perfectly legal, justified and does not suffer from any perversity.

37. As such, the instant writ petition filed under Article 226 of the Constitution of India is not maintainable and the same being devoid of any merit, deserves dismissal. As a necessary corollary, the order passed by the Tribunal is upheld and the challenge thrown to the same is ill-founded and the writ petition is, accordingly, **dismissed along with all connected applications.**

38. Interim directions, if any, shall stand vacated.

(Wasim Sadiq Nargal)
Judge

JAMMU
30.12.2023
Manan

Whether the order is speaking : Yes/No

Whether the order is reportable : Yes/No