

WRIT PETITION No. 3 OF 2002

Vs.
M. N. Nair ... Respondent

None for the Respondent.

CORAM : V. M. KANADE, &
REVATI MOHITE DERE, JJ.

DATE : JANUARY 28, 2015

PC.

1. Petitioner – Union of India has filed this petition, challenging the judgment and order dated 12.7.2001 passed by the Central Administrative Tribunal (for short “CAT”). By the said order the Tribunal had directed the Petitioner to pay increased salary amount on account of increments due from 21.4.1990 till 31.12.1994, if the same was not already paid, alongwith interest @ 12 per cent per annum from 14.12.1994 till the actual date of releasing the said amount.

2. This Court had directed the Petitioner to deposit the amount, which comes about Rs. 17,000/- approximately, in this Court and liberty was granted to the Respondent to withdraw the said amount. If the said amount is not withdrawn, liberty is granted to the

Respondent to withdraw the said amount alongwith interest, accrued thereon. We are of the view that Tribunal has not committed any illegality, and as such, therefore, impugned order cannot be said to be perverse. The Apex Court in the case of - Surya Dev Rai, Appellant vs. Ram Chander Rai & Ors, Respondents [(2003) 6 Supreme Court Cases 675] has laid down the guidelines as to the circumstances under which High Courts should exercise the writ jurisdiction under Art. 227 of the Constitution of India, as under-

“12. In the exercise of certiorari jurisdiction the High Court proceeds on an assumption that a Court which has jurisdiction over a subject-matter has the jurisdiction to decide wrongly as well as rightly. The High Court would not, therefore, for the purpose of certiorari assign to itself the role of an Appellate Court and step into re-appreciating or evaluating the evidence and substitute its own findings in place of those arrived at by the inferior court.

...

38. Such like matters frequently arise before the High Courts. We sum up our conclusions in a nutshell, even at the risk of repetition and state the same as hereunder:-

(1) ...

...

(5) Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (iii) a grave injustice or gross failure of justice has occasioned thereby.

(6) A patent error is an error which is self-evident, i.e., which can be perceived or demonstrated without involving into any lengthy or complicated argument or a long-drawn process of reasoning. Where two inferences are reasonably possible and the subordinate court has chosen to take one view the error cannot be called gross or patent.

(7) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the abovesaid two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for correction is yet

capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred there against and entertaining a petition invoking certiorari or supervisory jurisdiction of High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of the lis.

(8) The High Court in exercise of certiorari or supervisory jurisdiction will not covert itself into a Court of Appeal and indulge in re-appreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character.”

3. Taking into consideration the above observations of the Apex Court on the said issue, we are not inclined to interfere with the order passed by the CAT while exercising our writ jurisdiction under Article 226 of the Constitution. Writ petition is, therefore, dismissed.

[REVATI MOHITE DERE, J.]

[V. M. KANADE, J.]

Vinayak Halemath