

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, to issue writ of Certiorari, calling for the records from the respondent Nos.1 and 2 and quash the order dated 25.1.2002 passed by the second respondent in SE/27/2000, which was confirmed by the first respondent by order dated 05.7.2004 in S.A.34/2002 holding the same as illegal, unjust, perverse and contrary to law.

2. The facts leading to filing of the present writ petition are as follows:

The third respondent joined in the petitioner Bank i.e., A.P. Vardhaman (Mahila) Cooperative Urban Bank Limited as Trainee Apprentice in the year 1991 and she was promoted as Assistant Accountant Cadre-IV on 16.1.1997. On 17.4.1999, the third respondent was transferred to Mahaboobgunj Branch to officiate as In-charge Branch Manager. The third respondent, while working as such, committed certain irregularities. The petitioner Bank issued show cause notice calling for the explanation of the third respondent. The petitioner being not satisfied with the explanation offered by the third respondent, initiated departmental enquiry. After completion of the enquiry, the Enquiry Officer submitted his report. After following due procedure, the petitioner dismissed the third respondent from service on 08.8.2000. Feeling aggrieved by the order of the petitioner, the third respondent preferred appeal before the Authority under the A.P. Shops and Establishment Act, 1988 and the Assistant Commissioner of Labour, Hyderabad–III (first appellate authority) and the same was numbered as SE/27/2000. The first appellate authority, having accepted the findings of the Enquiry Officer, modified the punishment directing the petitioner Bank to pay an amount of Rs.60,000/- to the third respondent as compensation. Feeling aggrieved by the orders of the first appellate authority, the petitioner preferred the second appeal before the Authority Under Section 48(3) of A.P. S&E Act, 1988 & Deputy Commissioner of Labour, Hyderabad (Twin Cities), (second appellate authority) and the same was numbered as S.A.34/2002. After affording reasonable opportunity to both parties, the second appellate authority dismissed the appeal on 05.7.2004 confirming the order passed by the first appellate authority. Hence, the petitioner Bank filed the present writ petition.

3. The contention of learned counsel for the petitioner is two fold: (1) the findings recorded by the first and second appellate authorities are perverse as the same are not based on material much less legally admissible material; and (2) the first and second appellate authorities having been accepted the findings of the Enquiry Officer ought not to have granted compensation. ***Per contra***, learned counsel for the third respondent submitted that the findings recorded by the first and second appellate authorities are supported by material, which is legally admissible material. He further submitted that there are no grounds much less valid grounds to set aside the findings of the first and second appellate authorities while exercising the jurisdiction under Article 226 of the Constitution of India.

4. Before advertng to the findings of the first and second appellate authorities, it is apposite to refer relevant case law on the point of jurisdiction of this court under Article 226 of Constitution of India.

1) ***Syed Yakoob vs. K.S. Radhakrishnan***^[1], wherein the Hon'ble apex Court held at para No.7 as

follows:

“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 is 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 properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or 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 reached by the inferior Court or Tribunal as 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. Syed Ahmad Ishaque*^[2] *Nagandra Nath Bora v. Commissioner of Hills Division and Appeals Assam*^[3] and *Kaushalya Devi v. Bachittar Singh*^[4].)”

2) ***Swaran Singh vs. State of Punjab***^[5] wherein the Hon’ble apex Court held at para No.13 as follows:

13. In regard to a finding of fact recorded by an inferior tribunal, a writ of certiorari can be issued only if in recording such a finding, the tribunal has acted on evidence which is legally inadmissible, or has refused to admit admissible evidence, or if the finding is not supported by any evidence at all, because in such cases the error amounts to an error of law. The writ jurisdiction extends only to cases where orders are passed by inferior courts or tribunals in excess of their jurisdiction or as a result of their refusal to exercise jurisdiction vested in them or they act illegally or improperly in the exercise of their jurisdiction causing grave miscarriage of justice.

3) ***Union of India vs. P Gunasekaran***^[6] wherein the Hon’ble apex Court held at para No.12 as follows:

12. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappraisal of the evidence. The High Court can only see whether:

As per the principle enunciated in the cases cited supra, this Court, while exercising jurisdiction under Article 226 or 227 of the Constitution of India, can interfere with the findings recorded by the enquiry officer or the Labour Court/Tribunal, if they are perverse, or, if there is any error apparent on the face of the record.

5. Let me consider the facts of the case on hand in the light of the above legal principles. It is not in dispute that the third respondent committed certain irregularities while officiating as In-charge Branch Manager of petitioner Bank. The petitioner initiated departmental enquiry. It is not the case of the third respondent that the petitioner conducted enquiry in violation of principles of natural justice. The first appellate authority fully endorsed the findings recorded by the Enquiry Officer. Instead of reinstatement of the third respondent into the service of petitioner Bank, the first appellate authority directed the petitioner to pay an amount of Rs.60,000/- to the third respondent as compensation. The third respondent worked in different branches of petitioner Bank for a period of seven (7) years. No doubt, due to the dismissal from service, the third respondent might have faced financial problems. It appears, taking into consideration the plight of the third respondent, the first appellate authority awarded an amount of Rs.60,000/- to the third respondent towards compensation taking into consideration her length of service. The first appellate

authority has assigned cogent and valid reasons to his findings. The second appellate authority reappreciated the entire material available on record and arrived at a conclusion that granting of compensation of Rs.60,000/- to the third respondent is justifiable. Both the appellate authorities have assigned cogent and valid reasons. The findings recorded by both the appellate authorities are supported by material available on record. The findings recorded by the appellate authorities are not perverse.

6. The learned counsel for the third respondent submitted that the third respondent may be permitted to withdraw remaining amount of compensation.

7. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered view that it is not a fit case to interfere with the order passed by the second appellate authority confirming the order passed by the first appellate authority.

8. Accordingly, the writ petition is dismissed. The third respondent is entitled to withdraw the balance amount of compensation awarded to her in lieu of her reinstatement. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 20.6.2016
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[\[1\]](#) AIR 1964 SC 477
[\[2\]](#) (1955) 1 SCR 1104
[\[3\]](#) (1958) SCR 1240
[\[4\]](#) AIR 1960 SC 1168
[\[5\]](#) (1976) 2 SCC 868
[\[6\]](#) (2015) 2 SCC 610