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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 10807/2022 & CM APPL.31398/2022 (stay)

UNION BANK OF INDIA Petitioner

Through: Mr. Rajat Arora, Advocate.

versus

SHRI MOHD.TASLEEM, Respondent

Through: Mr. Sushant Singhal, Advocate.

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*Date of Decision: 17th August, 2022.***CORAM:****HON'BLE MR. JUSTICE DINESH KUMAR SHARMA****J U D G M E N T****DINESH KUMAR SHARMA, J. (Oral)**

1. Present petition has been filed assailing the impugned award dated 12.04.2022 passed in ID No. 73/2007 passed by the CGIT II, Rouse Avenue Court Complex, Delhi.
2. Facts, in brief, are that an industrial dispute was raised by the respondent, which was referred to the Tribunal by the appropriate authority. The claim statement was filed by the respondent/workman stating therein that he was working as a peon/messenger since 02.01.1998 with the petitioner/Bank in its branch at Chamba in the district of Tehri on daily wage basis. However, the petitioner/Bank suddenly terminated his service on 15.12.2004 without any notice, notice pay or payment of termination compensation. It was alleged that the action of the management Bank was in complete violation of the provisions of the Section 25F of the Industrial



Disputes Act, 1947 as he had worked continuously for the petitioner/Bank and had also worked for 240 days or more in the calendar year preceding to his termination. The petitioner/Bank in the written statement denied the existence of any employer-employee relationship. It was stated that in order to provide better customer service, the petitioner/Bank would sometime engage casual worker for short terms and make payment of wage to those persons working intermittently through payment vouchers. It was denied that the respondent/workman had worked continuously for the petitioner/Bank from 1998 to 2004. The plea of the management Bank was that the workman had worked for the management Bank for the period from March 2003 to December 2004, i.e, only 84 days. Existence of any industrial dispute was also denied by the petitioner/Bank.

3. The Central Government Industrial Tribunal after taking the proceedings *inter alia* held as under:-

“The law is well settled that once the claimant acquires the status of workman within the meaning of section 2(S) of the ID Act and completes 240 days of continuous service in a calendar year preceding his termination, the same would be valid only after compliance of the due procedure laid down in section 25F of the ID Act. The law is again well settled that the burden lies on the claimant to prove that he had worked for 240 days or more in the calendar year. In this case the management has only furnished a list of the days in which the claimant was engaged by the Bank. The management is a nationalized bank and supposed to maintain-all relevant documents relating to employment of persons and payment made to them. Though, the management has claimed that the claimant had all together worked for only 84 days between March 2003 to December 2004 not a single piece of paper or document has been



placed on record. On the other hand the documents though not complete as filed by the claimant clearly shows that he was working from 1998 to 2004 and payment were made to him through cash voucher and petty cash memos. This is a typical case of an illiterate low paid workman advancing the claim against the mighty employer who is in possession of all relevant documents. Non production of the documents by the management has no doubt influenced the merit of the case advanced by the claimant but that will not wipe out the rights of the claimant. Thus, from oral and documentary evidence adduced by the claimant it is clearly proved that he was engaged as a daily wager in the Bank from 02.01.1998 to 15.12.2004 when his service was illegally terminated by the Bank without comply of the provisions of section 25F of the Id Act. And the bank has intentionally suppressed the material documents relating to the claim of the claimant.”

4. The Central Government Industrial Tribunal further *inter alia* ordered as under:-

“The reference be and the same is accordingly answered in favour of the claimant workman. Since the alleged termination took place in the year 2004 and more than 18 years have passed in the meantime and it is not known whether the claimant is still eligible to be employed, it is felt proper to direct the bank to pay a lumpsum amount of compensation to the claimant instead of reinstating him into service. Accordingly the bank is directed to pay Rs. 500,000/- to the claimant as a lumpsum compensation for the illegal termination of his service in the month of December 2004. This amount shall be paid to the claimant within 3 months from the date when the award would become enforceable failing which the amount shall carry interest @ 6% per annum from the date of accrual and till the final payment is made. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.



The reference is accordingly answered.

Dictated & Corrected by me.”

5. Learned counsel for the petitioner submits that the impugned order has been assailed primarily on two grounds, firstly, that the learned CGIT has wrongly relied upon the letter dated 03.01.2016 written by the workman to the Station Incharge, PS: Phase-III, MO.B. Nagar. Learned counsel for the petitioner submits that this letter has no relevance at all so as to prove there is an employer-employee relationship. Secondly, learned counsel for the petitioner further submits that the Tribunal has wrongly ignored the documents placed before it which shows that the workman had worked only for 84 days. It has been submitted that the impugned order dated 12.04.2022 be set aside and the present writ petition may be allowed.

6. *Per contra*, learned counsel for the respondent/workman has argued vehemently that there is no substance in this petition. It has been submitted that the learned CGIT has passed the order based on the material on record and this Court in its writ jurisdiction cannot re-appreciate the evidence. Therefore, the present writ petition is liable to be dismissed.

7. The jurisdiction of this Court while entertaining a petition under Article 226 is wide but has to be exercised with great circumspection. The law provides no appeal against the order of Labour Court/Tribunal and the order of the learned Labour Court/Tribunal can only be challenged by way of a writ. Thus the legislature in its wisdom has not provided any forum of appeal so as to give opportunity to the person challenging the order for seeking re-appreciation of its evidence.



8. This Court in the case of *Parshuram Shah v. GNCTD & Anr.*: 2008 SCC Online Del 1186 relied on a plethora of judgments of the Supreme Court including *Indian Overseas Bank vs. I.O.B. Staff Canteen Workers*: (2000) 4 SCC 245, *Harbans Lal vs. Jagmohan Saran*: 1986 AIR 302, *B.C. Chaturvedi vs. Union of India*: 1996 AIR 484; *P.G.I. of Medical Education and Research Chandigarh vs. Rajkumar*: (2001) 2 SCC 54; *Municipal Corporation of Delhi vs. Asha Ram and Anr.*: 117 (2005) DLT 63 and it was held that the Labour Court is the final court of facts. It was also held that it is not appropriate for this Court, while exercising jurisdiction under Article 226 of the Constitution, to re-appreciate evidence or to interfere with the findings of facts as arrived at by the Labour Court. The jurisdiction exercised by the writ Court under Article 226 is supervisory and not appellate in nature. Reappraisal of evidence without sufficient reason in law, to arrive at a finding of fact contrary to those arrived at by the Subordinate Court, is not the intent of exercising the powers of judicial review.

9. I consider that in the present case the learned Trial Court has duly appreciated the evidence. It is also an established proposition that the writ Court cannot displace the order of the Tribunal only because it can take a different opinion on the basis of the record. I do not find any illegality and perversity in the order of the learned Tribunal.

10. The present writ petition along with pending application stands dismissed.

DINESH KUMAR SHARMA, J

AUGUST 17, 2022/st