

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21006-2016 (O/M)

Date of decision : 01.12.2023

Dalbir

..... Petitioner

Versus

The Presiding Officer, Labour Court, Ambala and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Viney Saini, Advocate
for the petitioner.
Mr. Satish Singla, DAG Haryana.

HARSH BUNGER, J.

1. Petitioner (Dalbir) has filed the instant Civil Writ Petition under Articles 226/227 of the Constitution of India, seeking quashing of impugned Award dated 05.11.2015 (Annexure P-1), passed by the Labour Court, Ambala, whereby the reference regarding termination of services of petitioner-workman has been answered against the petitioner-workman.
2. Briefly, the petitioner-workman raised an industrial dispute regarding termination of his services. In the claim statement, the petitioner-workman claimed that he joined the services of Forest Department, Government of Haryana (hereinafter referred to as 'respondent-Management') on 11.08.2002 in Serdha Beat as a Labourer on daily wage basis for the work of preparing nurseries, making ridges for plantation of plant, watering the plants, weeding out the unnecessary plants, doing earth work, filling of polythene bags for sowing seeds etc. The petitioner-workman claimed that he continuously worked from 11.08.2002 upto December, 2005 under Shri Surjit Singh, Forest Guard and Shri Karta Ram (Forester). The petitioner-workman further claimed that from January 2006 to December 2007, he

worked in Pai Forest Beat under Shri Sat Pal, Forest Guard and Shri Tek Ram, Forester and also worked under them from Kukarkunda to Mandewal Road; and thereafter, from year 2008, he remained under Shri Mohinder Singh, Forest Guard and Shri Anant Ram, Forester in Pai Forest Beat. It is the case of petitioner-workman that he continued to work in the year 2009 under Shri Bhim Singh, Forest Guard in the same beat near Karnal and also worked under him at Pundri to Rajound Road. Thereafter, for the year 2010 and 2011, his services were placed under Ram Pal, Forest Guard and Ram Swarup, Tirath Pal, Balbir etc. Foresters in Serdha Beat, Bakal to Rada Road, Rehra minor etc. and thereafter during the year 2012 and 2013, he worked under Ranbir (Forest Guard) and Rati Ram, Forester at Serdha to Karora Road and thereafter, he worked in Pai Beat under Shri Sunil, Forest Guard and Rati Ram, Forester at Jakholi Canal, Bhana and other sites. It was claimed that services of the petitioner-workman were terminated on 18.10.2013 by respondent-Management without observing the mandatory provisions of Industrial Disputes Act, 1947 (hereinafter referred to as 'the 1947 Act').

3. The petitioner-workman alleged that respondent-Management neither served any notice nor paid any retrenchment compensation despite the fact that he continuously worked from 11.08.2002 to 18.10.2013 without any break i.e. much more than 240 days. It was alleged that respondent-management committed mischievous acts by changing either the name of the workman or his father name in their records to defeat the right of the workman for regularization. It was further alleged that respondent-

Management has committed unfair labour practice by showing the petitioner-workman under some fictitious contractors without obtaining any registration certificate under the Contract Labour (Regulation and Abolition) Act, 1970 (in short 'the CLRA Act') nor alleged contractors obtained any registration or license for supplying contract labour for doing work under the aforesaid 1970 Act. It was claimed that juniors to petitioner-workman had been retained and even fresh persons were employed. It was therefore claimed that the services of petitioner-workman have been terminated in violation of provisions of Section 25-F, Section 25-G and Section 25-H of 1947 Act. Accordingly, it was prayed that he (petitioner-workman) be reinstated in service with continuity of service and full back wages.

4. The aforesaid claim of petitioner-workman was contested by respondent-Management by filing its reply wherein a preliminary objection was taken that the petitioner-workman never worked with respondent-Management and there never existed employer-employee relationship nor had he completed 240 days in calendar year in the preceding year from the date of his alleged termination.

On merit, it is stated that the work in the forest department is of seasonal nature and whenever there is need of any work to be done, then the work is taken through the petty contractors and the contractors provide the required workers to do the given work, meaning thereby there exists no relationship of employer and employee between respondent-Management and the petitioner-workman. It is the categoric stand of respondent-Management that they did not maintain the muster roll since 2002. It was stated that as per

the instructions of Haryana Forest Manual, the muster rolls for the period between 1988-89 to 2008-09 have been weeded out by constituting committee, vide office order No. 30, dated 20.06.2012. It was further stated by respondent-Management that the seasonal work is got done through piece rate since 2002 to 16.06.2005 and during this period, respondent-Management got this work done through piece rate contractors and after verification of the work of the bills, the payment is made to the petty contractors. It was further stated that after 16.06.2005, contract system/outsourcing scheme has been adopted wherein the tenders are invited and orders are given to the competent person for petty contract and after completion of work, the payment is made to the said contractor through EPS System. On the basis of aforesaid pleas, prayer was made for dismissal of the claim statement.

5. On the basis of pleadings of the parties, the issues were framed and the parties led their respective evidence.

6. The Labour Court, on the basis of material/evidence on record, answered the reference against the workman, vide award dated 05.11.2015 (Annexure P-1).

7. In the aforementioned circumstances, the petitioner-workman has approached this Court by way of filing the instant writ petition.

8. Learned counsel for petitioner-workman has reiterated the stand taken by petitioner-workman before the Labour Court below and submitted that there was sufficient material on record to show that the petitioner-workman had worked for 240 days. Learned counsel for petitioner-workman

has also placed reliance upon the judgments rendered in the case of Bal Kishan Versus Presiding Officer, Labour Court, Panipat, 1996 (3) SCT 548 and Divisional Forest Officer, Sirsa Versus Jagdish, 2004 (1) SCT 699 to contend that the burden of proving that workman had not worked for 240 days in 12 months preceding termination of his service is on employer. Accordingly, it is submitted that the impugned Award be quashed and respondent-Management be directed to reinstate the petitioner-workman with continuity of service and other consequential benefits.

9. Per contra, learned State counsel appearing for respondent-Management has opposed the prayer of the petitioner-workman by submitting that the Labour Court below has rendered a well reasoned and justified award after considering the material/evidence placed on record. Learned State counsel submitted that judgments sought to be relied upon by learned counsel for petitioner-workman are not applicable and do not lay down correct position as it is well settled by now that onus to prove employer-employee relationship and continuous service of 240 days in terms of Section 25-B of 1947 Act is on the workman. Learned State counsel further submits that once the petitioner-workman had failed to discharge the onus placed upon him by law to prove that he worked for 240 days in preceding 12 calendar months from date of his termination, no relief can be granted. Accordingly, he prayed for dismissal of writ petition.

10. I have heard learned counsel for respective parties and have also perused the paperbook with their able assistance.

11. Here it would be apposite to refer to a few judicial pronouncements.

12. In the case of “*Range Forest Officer v. S.T. Hadimani*”, 2002(3)

SCT 382 (SC), Hon'ble Apex Court held as under:-

“2. In the instant case, dispute was referred to the Labour Court that the respondent had worked for 240 days and his service had been terminated without paying him any retrenchment compensation. The appellant herein did not accept this and contended that the respondent had not worked for 240 days. The Tribunal vide its award dated 10th August, 1998, came to the conclusion that the service had been terminated without giving retrenchment compensation. In arriving at the conclusion that the respondent had worked for 240 days, the Tribunal stated that the burden was on the Management to show that there was justification in termination of the service and that the affidavit of the workman was sufficient to prove that he had worked for 240 days in an year.

3. For the view we are taking, it is not necessary to go into the question as to whether the appellant is an "industry" or not, though reliance is placed on the decision of this Court in State of Gujarat v. Pratam Singh Narsinh Parmar, 2001(2) SCT 1081 (SC) : JT 2000(3) SC 326. In our opinion the Tribunal was not right in placing the onus on the Management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an

affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in an year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside.

13. In the case of “*Municipal Corpn. v. Siri Niwas*”, 2004(4) SCT 211, Hon'ble Apex Court held as under:-

“12. The provisions of the Indian Evidence Act per se are not applicable in an industrial adjudication. The general principles of it are, however, applicable. It is also imperative for the Industrial Tribunal to see that the principles of natural justice are complied with. The burden of proof was on the respondent herein to show that he had worked for 240 days in preceding twelve months prior to his alleged retrenchment. In terms of Section 25-F of the Industrial Disputes Act, 1947, an order retrenching a workman would not be effective unless the conditions precedent therefor are satisfied. Section 25-F postulates the following conditions to be fulfilled by employer for effecting a valid retrenchment :

- (i) one month's notice in writing indicating the reasons for retrenchment or wages in lieu thereof:*
- (ii) payment of compensation equivalent to fifteen days average pay for every completed year of continuous service or any part thereof in excess of six months.*

13. For the said purpose it is necessary to notice the definition of 'Continuous Service' as contained in Section 25-B of the Act. In terms of sub-section (2) of

Section 25-B that if a workman during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer 240 days within a period of one year, he will be deemed to be in continuous service. By reason of the said provision, thus, a legal fiction is created. The retrenchment of the respondent took place on 17.5.1995. For the purpose of calculating as to whether he had worked for a period of 240 days within one year or not, it was, therefore, necessary for the Tribunal to arrive at a finding of fact that during the period between 5.8.1994 to 16.5.1995 he had worked for a period of more than 240 days. As noticed hereinbefore, the burden of proof was on the workman. From the Award it does not appear that the workman adduced any evidence whatsoever in support of his contention that he complied with the requirements of Section 25-B of the Industrial Disputes Act. Apart from examining himself in support of his contention he did not produce or call for any document from the office of the Appellant herein including the muster rolls. It is improbable that a person working in a Local Authority would not be in possession of any documentary evidence to support his claim before the Tribunal. Apart from muster rolls he could have shown the terms and conditions of his offer of appointment and the remuneration received by him for working during the aforementioned period. He even did not examine any other witness in support of his case.

14. A Court of Law even in a case where provisions of the Indian Evidence Act apply, may presume or may not presume that if a party despite possession of the best evidence had not produced the same, it would have gone

against his contentions. The matter, however, would be different where despite direction by a court the evidence is withheld. Presumption as to adverse inference for non-production of evidence is always optional and one of the factors which is required to be taken into consideration in the background of facts involved in the lis. The presumption, thus, is not obligatory because notwithstanding the intentional non-production, other circumstances may exist upon which such intentional non-production may be found to be justifiable on some reasonable grounds. In the instant case, the Industrial Tribunal did not draw any adverse inference against the Appellant. It was within its jurisdiction to do so particularly having regard to the nature of the evidence adduced by the Respondent.

15. No reason has been assigned by the High Court as to why the exercise of discretionary jurisdiction of the Tribunal was bad in law. In a case of this nature, it is trite, the High Court exercising the power of judicial review, would not interfere with the discretion of a Tribunal unless the same is found to be illegal or irrational...”

14. In “*R.M. Yellatti v. The Asstt. Executive Engineer*”, 2005(4)

SCT 695, it was held as follows :

".... Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self-serving statements made by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above

judgments further lay down that mere non-production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the tribunal to draw an adverse inference against the management. Lastly, the above judgments lay down the basic principle, namely, that the High Court under Article 226 of the Constitution will not interfere with the concurrent findings of fact recorded by the labour Court unless they are perverse. This exercise will depend upon facts of each case."

15. It is manifest from aforesaid judicial pronouncements that the burden of proof that a workman had worked for 240 days in a given year was on the workman. It is well settled that mere affidavits or self-serving statements made by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. Further, it is also the settled position in law that mere non-production of muster rolls *per se* without any plea of suppression by the claimant-workman will not be the ground for the Tribunal to draw an adverse inference against the Management. Furthermore, drawing of adverse inference is optional and not obligatory and would depend on facts and circumstances of each case and the same would be within the domain of Tribunal/Labour Court.

16. In the instant case, the Labour Court below, while answering the reference against petitioner-workman, has held as under :-

12. In the instant case, the workman has failed to prove his case by producing any documentary evidence

i.e. salary slip, appointment letter, attendance register or any other document except making his oral statement that he had worked for more than 240 days in every calendar year since 2002 till his termination on 18.10.2013. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence to come to the conclusion that he had in fact worked for 240 days in a year. As regards the statement of Lilad WW2, his statement do not inspire confidence because being the co-worker of the workman he has deposed only in general and vague manner that the workman had done his job for about 10 years continuously prior to his termination in Pundri Range. It may be noted that WW2 has nowhere stated that the workman Dalbir had actually worked for more than 240 days in the year preceding his termination. Moreover, he seems to be highly interested witness as he had himself filed the case against the management for his alleged illegal termination.

13. So far as the copy of the statement ExW48 of Sunil Singh, Forest Guard recorded as WW5 in the case of Sube Singh Vs DFO in Ref. No. 90 of 2014 is concerned, the same also cannot be relied upon at all because he has simply stated in his examination-in-chief that the workmen namely Ram Kumar, Parkasha, Summer, Jai Pal, Raj Pal, Shamsher, Rishi Pal, Rajinder, Sultan, Bhan Singh, Krishan Baldeva, Ram Mehar, Tek Chand, Shish Pal, Subhash and Sube Singh have worked with him for a period 2/2 ½ year but he could not specify the exact period during which the workers including the workman Dalbir had worked. Moreover, he could not explain as to when and to whom

and under what circumstances and what capacity the letter ExWW5/A was signed by him. In the aforesaid letter ExWW5/A, he has stated that the workmen had worked with him in Hazwana Beat during the years 2010 and 2011 and completed 240 days. However, it has not been specified therein that for how much period the workmen had worked in the year 2010 or in the year 2011, whereas the date of alleged termination of workman Dalbir is stated to be 18.10.2013. Meaning thereby that the onus was upon the workman to prove that he had worked for 240 days in the preceding 12 calendar months i.e. during the period from 18.10.2012 to 18.10.2013. Furthermore, it may also be noted that the deposition so made by WW5 is not as per any record as himself stated by him during the cross-examination. It is also relevant to note here that the letter ExWW5/A was produced by the workman Sube Singh himself and the same is not the part of any official record.

14. At this stage, it has also been pointed out by the learned Government Pleader during the course of arguments that WW5 has been suspended for his such false deposition by the departmental authorities vide order dated 27.7.2015 of DFO, Kaithal. In these circumstances, no reliance thus can be placed on the statement of WW5 so as to prove the claim of the workman. Besides this, it may also be seen that the claim of the workman mainly rests on the basis of two seniority lists dated 20.8.2007 i.e. ExW2 and ExW3. Surprisingly, the name of the workman does not find mention anywhere in the aforesaid seniority lists which reflect the position as was prevailing on 20.8.2007.

Had the workman Dalbir been working with the respondent-management on 20.8.2007 or prior to that his name then would have certainly appeared in the seniority list of 299 workers prepared by the workers union. As such the claim of the workman that he has been in continuous service of the respondents-management since 2001 gets falsified. For the same reason, it cannot also be said that the case of the workman is at par with the case of those 36 workmen who were ordered to be reinstated in service as argued by the learned AR for the workman. It also could not be established by the workman that services of any of his junior workers were regularized by the department or that any junior is still working in the department. As such, the workman, in the present case, is not entitled to get any kind of relief in view of the fact that he has miserably failed to prove that he had worked for 240 days continuously with the management in the preceding 12 calendar months from the date of his alleged termination. Above all, it may be also noted that the workman Dalbir WW1, during his cross-examination, has himself admitted that he had abandoned his job in October 2013 and as such the question of his alleged retrenchment by the respondents-management does not arise. Accordingly, this issue is decided against the workman.

ISSUES NO. 2 TO 9

15. Neither any evidence was led on these issues nor these issues were pressed during the course of arguments by the learned Government Pleader appearing on behalf of the respondents. Hence, these issues are decided against the respondents.

Relief

16. *In view of my findings on issue no. 1, the reference is answered against the workman. Copies of award be sent to the authorities concerned.”*

17. A perusal of above extracted findings returned by Tribunal below would manifest that the workman failed to prove that there was employee-employer relationship and/or that the workman had completed 240 days work with respondent-Management so as to be entitled to any relief. Neither before the Tribunal below nor before this Court, the petitioner has shown any material to prove the aforesaid fact and in the absence of the same, no relief can be granted to the petitioner.

18. Here it would be apposite to note that in para 4 of the claim statement submitted by the petitioner-workman, it was pleaded that the Management had been committing unfair labour practice by showing the workman under some fictitious contractor without obtaining any registration under CLRA Act, 1970 nor alleged contractors obtained any registration or licence for supplying contract labour. It is observed from the said plea that the petitioner-workman was very well aware of the fact that he was engaged by a contractor and not by respondent-Management.

Furthermore, as regards the contention regarding non-registration of the contractor as well as the department under the Act, 1970 is concerned, the said issue is no more *res integra* as the position stands settled by the Hon'ble Supreme Court by authoritative judgment in the case of **“Steel Authority of India Ltd. v. National Union Water Front Workers”**, 2001(4) SCT 1, wherein the following findings were returned: -

“124. The upshot of the above discussion is outlined thus :

(1) (a) Before January 28, 1986, the determination of the question whether Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry; or the establishment of any railway, cantonment board, major port, mine or oil field or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government.

(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act, if (i) the concerned Central Government company/undertaking or any undertaking is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by railway company; or (c) by specified controlled industry, then the Central Government will be the appropriate Government otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2) (a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in the any establishment has to be issued by the appropriate Government :

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and;

(2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question; and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) inasmuch as the impugned notification issued by the Central Government on December 9, 1976 does not satisfy the aforesaid requirements of Section 10 it is quashed but we do so prospectively i.e. from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment. Consequently the principal employer cannot be required to order absorption of the contract

labour working in the concerned establishment.

(4) We over-rule the judgment of this court in *Air India's case (supra)* prospectively and declare that any direction issued by any industrial adjudicator/any court including High Court, for absorption of contract labour following the judgment of in *Air India's case (supra)*, shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of the having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contract or is a mere ruse/camouflage to evade compliance of various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularise the services of the contract labour in the concerned establishment subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in

respect of the concerned establishment has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation of other work of the establishment the principal employer intends to employ regular workmen he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications.

Still further, the effect of non-registration of contractor under the Act, 1970 was considered by a Division Bench of this Court in *Balwinder Singh v. Punjab State Electricity Board*, 2011(4) S.C.T. 231, wherein it was observed as under:-

“6. The absence of any registration of the labour contractor under the provisions of the Act, in our considered view, will not alter the situation. The same may make the labour contractor liable for penal and other action contemplated by the provisions of the Act. The absence of any such registration of the labour contractor cannot obliterate the engagement of workmen by the contractor; neither the said fact can alter the status of the workmen to one of regular employees under the principal employer...”

19. As regards the plea of the petitioner-workman that the Tribunal below has failed to draw adverse inference against respondent-Management for not producing the relevant record; suffice it to say that drawing of adverse inference is always optional and within the jurisdiction of the Tribunal below, considering the peculiar facts and circumstances of a case. In the instant case, the Tribunal below has not drawn any adverse inference.

20. The parameters for exercise of jurisdiction by the High Court under Article 226 of the Constitution of India in cases involving challenge to the award passed by the Labour Court/Industrial Tribunal and orders passed by other judicial and quasi-judicial bodies are well defined. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior Courts or Tribunals. A writ can also be issued where in exercise of jurisdiction conferred on it, the Court or the Tribunal acts illegally or improperly i.e. it decides a question without giving an opportunity to be heard to the party affected by the order or where the procedure adopted by it is opposed to the principles of natural justice. However, it must be remembered that the jurisdiction of the High Court to issue a writ of certiorari is a supervisory jurisdiction and not appellate one. This necessarily means that the finding of fact reached by the inferior Court or Tribunal, as a result of the appreciation of evidence, cannot be reopened or questioned in writ proceedings except when the judgment, order or award suffers from an error of law apparent on the face of the record. This is the abstract statement of law, but the vexed question is as to what is an error of law apparent on the face of the record and in what circumstances a finding of fact recorded by an

inferior Court or Tribunal or a quasi-judicial authority can be corrected. Broadly speaking, an error of law is one which can be discovered on a bare reading of the judgment, order or award under challenge along with the documents which have been relied upon by the inferior Court, Tribunal or quasi-judicial authority. An error, the discovery of which is possible only after a detailed scrutiny of the evidence produced by the parties and lengthy debate at the bar cannot be regarded as an error of law for the purpose of a writ of certiorari. A finding of fact recorded by an inferior Court or Tribunal can be corrected only if it is shown that in recording the said finding the Court or the Tribunal had erroneously refused to admit admissible and material evidence or had erroneously admitted inadmissible evidence and the same has influenced the impugned finding. Similarly, a finding of fact based on no evidence would be regarded as an error of law which can be corrected by a writ of certiorari. However, sufficiency or adequacy of the evidence relied upon by the inferior Court or Tribunal or the quasi-judicial authority cannot be gone into by the High Court while considering the prayer for issue of a writ of certiorari. Likewise, the mere, possibility of forming a different opinion on re-appreciation of evidence by the parties is not sufficient for issue of a writ of certiorari ***Syed Yakoob v. K.S. Radhakrishnan and others, AIR 1964 Supreme Court 477; Shaikh Mahammad Umarsaheb v. Kadalaskar Hasham Karimsab and others, AIR 1970 Supreme Court 61; Jitendra Singh Rathor v. Sh. Baidyanath Ayurved Bhawan Ltd. and another, AIR 1984 Supreme Court 976; R.S. Saini v. State of Punjab and others, 1999(4) RCR (Civil) 253 (SC) : J.T. 1999(6) S.C. 507 and Mohd.***

***Shahnawaz Akhtar and another v. Ist A.D.J. Varanasi and others,
J.T. 2002(8) S.C. 69.***

21. Accordingly, considering the totality of circumstances in the light of legal position indicated above, there is no scope for interference in the findings returned by the Tribunal below in exercise of writ jurisdiction by this Court. Therefore, the instant writ petition is accordingly dismissed.

22. All pending application(s), if any, shall stand closed.

**(HARSH BUNGER)
JUDGE**

01.12.2023
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No