



Neutral Citation Number: 2023:DHC:5264- DB

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **Date of Decision: 21.07.2023**% **LPA 562/2023 and C.M. Nos. 36760/2023 & 36761/2023****KARANVIR SINGH**

..... Appellant

Through: Mr. Mahesh Srivastava and
Mr. Vaibhav Manu Srivastava,
Advocates.

versus

**DY GENERAL MANAGER
STATE BANK OF INDIA**

..... Respondent

Through: Mr. Rajiv Kapoor and Mr. Akshit
Kapur, Advocates.**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE SANJEEV NARULA****SATISH CHANDRA SHARMA, CJ. (ORAL)**

1. The instant LPA has been preferred by the Appellant, praying that the judgment dated 23.12.2022 passed by the Learned Single Judge in W.P.(C) No. 18065/2004 be set aside. The Appellant herein had filed the underlying writ petition challenging the Award dated 19.07.2004 passed by the Presiding Officer, Central Government Industrial Tribunal (CGIT), New Delhi in I. D. No. 181/198.

2. The facts of the case reveal that the Appellant (writ petitioner) – as



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stated in the writ petition, was recruited in the services of State Bank of India in the month of January 1983 as a Messenger-cum-Water Boy at Nangli Sakrawati Branch of the State Bank of India and continued up to December 1986. As per the statement of the Petitioner, he was re-engaged by the State Bank of India as a Messenger-cum-Water Boy in the same branch in the month of January 1989 and continued to work up to 31.11.1997.

3. The Petitioner – while he was in service, raised an industrial dispute claiming regularisation and the conciliation proceedings resulted in failure. The Reference was forwarded to the Central Government Industrial Tribunal for adjudication and the same reads as under:

“Whether the action of the management of State Bank of India in not regularizing the services of Shri Karanvir Singh, messenger cum water boy w.e.f 1983 is just fair and legal. If not, what relief the concerned workman is entitled to?”

4. The Appellant workman filed a statement of claim and the Industrial Tribunal has passed a detailed and exhaustive Award dismissing the claim of the workman. Paragraphs 6 & 7 of the Award passed by the Industrial Tribunal read as under:

“6. It is not disputed as the workman was recruited in January, 1983 at Nangli Sakrawati Branch of the management bank as Messenger-cum-Water Boy and worked there till December, 1986 as Water boy and thereafter his services were terminated and further that he was again re-appointed in the service of the bank in January, 1989 in the said branch of the bank and worked there till 30.11.97 when his services were terminated. However, the bank claims that his appointment was not regular and valid as he was not appointed as per procedure laid down as per recruitment rules or process and



that the manager of the bank Branch had no authority to appoint him or further he was appointed without approval from the competent authority and the bank has further claimed that he also failed to apply for permanent absorption/regularization in view of Bipartite agreement arrived in January 91 as such he is not entitled to the relief of regularization and reinstatement claimed in his petition. The perusal of the record shows that the workman was not employed or appointed to the post of water boy or messenger-cum-water boy through regular process nor he was given any appointment letter. However, he worked there as such for more than 240 days during the both periods from 1983-86 and 89 to 97. The respondent bank has admitted that he worked there on temporary basis or on daily wages and in view of the Bipartite Settlement dated 27.10.88 and 9.1.91 entered into between the employees Union and respondent bank. The workman was eligible to apply for regularization but he failed to do so. As such he is not entitled to the relief claimed. The workman in his statement of claim has averred that he applied for his absorption or regularization in view of the above said bipartite agreement but in his statement he did not depose so not any suggestion was put to the witness of the management MW1 that he so applied. MW1 Shri M.M. Sharma also stated in his evidence that he did not apply for absorption in the service or for regular appointment. Workman also failed to file copy of the application vide which he applied to the bank and he also failed to put/file copy of the application or he ever asked the Bank to produce the record to show that he had moved such an application. The burden to prove that he applied for regularization of his job was upon the workman. In my opinion he has failed to prove his claim that he so applied, in view of the above discussions the workman is not entitled to the reliefs claimed.

7. *In view of the discussions made above I am of the opinion that the claimant applicant has failed to prove that he was appointed to the job of Messenger-cum-Water boy through a regular process or that he was entitled to be retained or regularized or that he moved an application for absorption and regularization in the job in view of the Bipartite Settlement*



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entered into in January, 1991. Therefore, the workman is not entitled to the relief claimed. Hence the award is accordingly passed.”

5. The aforesaid Award was passed after scrutinising the evidence on record and the Industrial Tribunal has arrived at a conclusion that the employee in question is not entitled to regularisation in light of the Bipartite Settlement dated 17.11.1987 (Sastry Award) under Section 2(p) read with Section 18(1) of the Industrial Disputes Act, 1947.

6. The workman in question thereafter preferred a writ petition before this Court and the learned Single Judge has dismissed the said writ petition. The operative paragraphs of the order passed by the Learned Single Judge are contained in paragraphs 23 to 30, and the same read as under:

“23. In the present case, it is the case of the petitioner that his service was terminated w.e.f 30.11.1997. However, the term of reference was confined to his regularization in service w.e.f 1983. There is no reference qua his alleged illegal termination. No additional issue was framed by the learned Labour Court. The petitioner neither challenged the term of reference nor pressed for framing additional issues. Since the learned Labour Court conducted the enquiry limited to the term of reference, i.e, the issue of regularization, hence this Court is also restricting the examination limited to the term of reference, i.e, regularization of the petitioner as a Messenger-cum-Water Boy w.e.f 1983.

24. The law regarding the regularisation of an employee is no more res integra. As per the settled proposition of law, the regularization can be done only as per the regularization policy declared by the Government, and nobody can claim the regularization as a matter of right de hors the regularization policy. The Hon^{ble} Supreme Court reiterated this position in State of Rajasthan and Ors. vs. Daya Lal and Ors. (2011) 2 SCC 429, which reads, inter alia, as follows:



“12. We may at the outset refer to the following well principles relating to regularization and parity in pay, relevant in the context of these appeals:

- (i) High Courts, in exercising power under Article 226 of the Constitution will not issue directions for regularization, absorption or permanent continuance, unless the employees claiming regularization had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and courts should not issue a direction for regularization of services of an employee which would be violative of constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularized, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularized.*
- (ii) Mere continuation of service by an temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be 'litigious employment'. Even temporary, ad hoc or daily- wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularization, if he is not working against a sanctioned post. Sympathy and sentiment*



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cannot be grounds for passing any order of regularization in the absence of a legal right.

- (iii) *Even where a scheme is formulated for regularization with a cut off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut off date), it is not possible to others who were appointed subsequent to the cut off date, to claim or contend that the scheme should be applied to them by extending the cut off date or seek a direction for framing of fresh schemes providing for successive cut off dates.*
- (iv) *Part-time employees are not entitled to seek regularization as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularization or permanent continuance of part time temporary employees.*
- (v) *Part time temporary employees in government run institutions cannot claim parity in salary with regular employees of the government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute.”*

25. *In view of the legal position as discussed herein above, it is necessary to examine the facts of the present case. The respondent Bank had entered into Settlement Agreements with its employee Unions and formulated Scheme for the regularisation of the temporary employees. The said Scheme was given wide publicity by duly publishing it in the daily*



newspapers. An employee is entitled for the regularisation only if he satisfies the regularisation policy of the Management. It was the categorical stand of the respondent that the petitioner never applied under the said Scheme for regularisation. However, it was the case of the petitioner that he applied for regularisation. The burden of proof was on the Petitioner to prove that he applied under the said regularisation Scheme. However, the Petitioner failed to place on record any document to show that he ever applied for the permanent absorption under the Scheme. The petitioner stepped into the Witness box as WW-1 and deposed that he submitted his application for regularisation through Nangli Sakravati Branch. However, no particulars of the said application, including the date of the application, was placed on record. MW-1 and MW-2 deposed categorically that the petitioner never applied under the Scheme. The Petitioner failed to cross-examine the Management Witnesses on these aspects. The petitioner failed to summon the relevant records from the respondent Bank. The process of regularisation happened in the year 1991. However, there is no representation/letter from the petitioner till his termination. There is nothing on record to show that the petitioner ever applied for the permanent absorption under the Scheme of the respondent Management.

26. This Court examined the impugned Award in detail. The relevant portion of the impugned Award, reads, *inter alia*, as follows:

“The respondent bank has admitted that he worked there on temporary basis or on daily wages and in view of the Bipartite Settlement dated 27.10.88 and 9.1.91 entered into between the employees Union and respondent bank. The workman was eligible to apply. For regularisation but he failed to do so. As such, he is not entitled to the relief claimed. The workman in his statement of claim has averred that he applied for his absorption or regularization in view of the above said bipartite agreement but in his statement he did not depose so not any suggestion was put to the witness of the



management MW-1 that he so applied. MW-1, Shri M.M. Sharma also stated in in his evidence that he did not apply for absorption in the service or for regular appointment. Workman also failed to file copy of the application vide which he applied to the bank and he also failed to put/file copy of the application or he ever asked the Bank to produce the record to show that he had moved such an application. The burden to prove that he applied for regularization of his job was upon the workman. In my opinion he has failed to prove his claim that he so applied, in view of the above discussions the workman is not entitled to the reliefs claimed.”

27. *This Court finds no infirmity or perversity in the findings of the learned Labour Court. Learned Labour Court passed the impugned Award based on the evidence on record.*

28. *Both the parties raised issues relating to existence of employer/employee relationship between the parties. In view of the fact that the petitioner never applied for the regularisation under the Scheme of the respondent's Bank, the petitioner is not entitled for regularisation. Hence this Court does not think it necessary to examine the other issues as the same was not part of the reference.*

29. *In the light of the detailed discussions herein above, this court holds that the impugned award does not suffer from any illegality or perversity. Learned Labour Court did not commit any error by confining its inquiry to the questions referred to it under Section 10(4) of I.D. Act. Regularisation is not a matter of right and therefore this Court cannot direct the respondent Bank to regularize the services of petitioner. This Court is not inclined to interfere with the impugned award while exercising the jurisdiction vested in it under Article 226 of the Constitution of India.*

30. *The present Writ Petition is dismissed in the aforesaid terms. No order as to costs.”*

7. The Award passed by the Tribunal and the order passed by the



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Learned Single Judge make it very clear that the services of the workman were put to an end w.e.f. 30.11.1997; the Reference was confined to his regularisation w.e.f. 1983; and the Reference was not relating to termination. The workman at no point of time has challenged the terms of Reference nor a prayer was made before the Tribunal for framing additional issues, and in that backdrop, the Tribunal has answered the Reference against the workman holding that the workman is not entitled to regularisation as a Messenger-cum-Water Boy w.e.f. 1983.

8. The Award passed by the Tribunal on facts reveals that the workman was recruited in the year 1993 as a Messenger-cum-Water Boy and served the bank till 1986 and he was again re-appointed in the services of the bank in 1989 and worked till 30.11.1997. It has been established before the Tribunal that his appointment was not regular and he was not appointed as per the procedure laid down in the Recruitment Rules and the Manager of the bank had no authority to appoint him. He was appointed without approval from the Competent Authority and in light of the Bipartite Agreement arrived at in January 1991, option was given to the employees to submit an application claiming regularisation. The evidence on record establishes that the workman did not submit any application for regularisation. He failed to file copy of the application and, in fact, he failed to prove that he did make a claim for regularisation at the relevant point of time. The Appellant workman stepped into the witness box as WW-1 and stated that he did submit an application, however, no particulars of the said application, including the date of the application were placed on record. MW-1 and MW-2 deposed categorically that the Appellant workman never



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applied under the scheme for regularisation and the scheme provided for application for the purpose of regularisation.

9. The Appellant workman also failed to summon the relevant record from the bank and the process of regularisation took place in 1991. Though the process of regularisation took place in 1991, the Appellant never took steps at the relevant point of time in the matter of regularisation nor submitted any representation to the employer. In the considered opinion of this Court, the findings of fact arrived at by the Tribunal does not warrant any interference.

10. Learned Counsel for the Appellant has placed heavy reliance upon a judgment delivered in the case of ***Oshiar Prasad v. Employers In Relation To Management Of Sudamdih Coal Washery of M/s Bharat Coking Coal Limited, Dhanbad, Jharkand***, (2015) 4 SCC 71. He has referred to Paragraph 33 of the aforesaid judgment which reads as follows:

“33. This takes us to the next question as to whether the appellants are entitled to claim the relief of payment of retrenchment compensation. Having given our anxious consideration to this issue, we are of the considered view that having regard to the peculiar facts of this case and the reasons, which we have set out hereinbelow, we are inclined to hold that the appellants are entitled to claim the retrenchment compensation from the Contractor/BCCL.”

11. It is true that the aforesaid case was a case of regularization and the employee was later on retrenched by the employer. In those circumstances, the Hon’ble Supreme Court held that the employee is entitled to claim the retrenchment compensation. The reason assigned by the Hon’ble Supreme Court for grant of retrenchment compensation is reflected in Paragraph 34 of



the judgment which reads as follows:

“34. It is for the reason that firstly, the respondent in their written statement filed before the Tribunal have offered to pay the retrenchment compensation to all such workers in accordance with the provisions of Section 25-F of the Act. Secondly, no documents were filed by the respondent to show that any such compensation was paid to the appellants or to any worker till date by the respondent and lastly, more than three decades have passed and yet the issues of absorption, and/or payment of compensation has not attained finality.”

12. From a bare perusal of the aforesaid paragraph, it is evident that the organization in question in the aforesaid judgment, has offered to pay compensation to workers and in those circumstances, an order was passed by the Hon’ble Supreme Court directing the Employer to grant retrenchment compensation to the Appellants therein.

13. Whereas, in the present case the pleading does not reveal that any such identically placed person was granted retrenchment compensation. Therefore, no relief can be granted based upon the aforesaid judgment relied upon by the Learned Counsel for the Appellant.

14. In the present case, a finding of fact has been arrived at by the Tribunal that the Appellant workman never submitted any application claiming regularisation as Messenger-cum-Water Boy w.e.f. 1983. The finding of fact arrived at by the Tribunal has been affirmed by the learned Single Judge and it is a settled proposition of law that the High Courts cannot interfere with the findings of fact which the Tribunal is competent to decide. (See *Sadhu Ram Vs. Delhi Transport Corporation*, (1983) 4 SCC 156).



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15. The Hon'ble Supreme Court in paragraph 17 of the judgment in ***Indian Overseas Bank Vs. I.O.B. Staff Canteen Workers' Union***, (2000) 4 SCC 245, has held as under:

“17. The learned Single Judge seems to have undertaken an exercise, impermissible for him in exercising writ jurisdiction, by liberally reappreciating the evidence and drawing conclusions of his own on pure questions of fact, unmindful, though aware fully, that he is not exercising any appellate jurisdiction over the awards passed by a tribunal, presided over by a judicial officer. The findings of fact recorded by a fact-finding authority duly constituted for the purpose and which ordinarily should be considered to have become final, cannot be disturbed for the mere reason of having been based on materials or evidence not sufficient or credible in the opinion of the writ court to warrant those findings, at any rate, as long as they are based upon some material which are relevant for the purpose or even on the ground that there is yet another view which can reasonably and possibly be taken... .. The only course, therefore, open to the writ Judge was to find out the satisfaction or otherwise of the relevant criteria laid down by this Court, before sustaining the claim of the canteen workmen, on the facts found and recorded by the fact-finding authority and not embark upon an exercise of reassessing the evidence and arriving at findings of one's own, altogether giving a complete go-by even to the facts specifically found by the Tribunal below.”

16. The Hon'ble Supreme Court in the aforesaid case has held that the findings of fact recorded by a fact finding authority (Tribunal) duly constituted for the purpose becomes final unless the findings are perverse or based upon no evidence. The jurisdiction of the High Court in such matters is quite limited.



17. The Hon'ble Supreme Court has taken a similar view in ***Hari Vishnu Kamath v. Ahmed Ishaque & Ors.***, AIR 1955 SC 233, *inter alia* held as under:

“21. ... On these authorities, the following propositions may be taken as established: (1) Certiorari will be issued for correcting errors of jurisdiction, as when an inferior Court or Tribunal acts without jurisdiction or in excess of it, or fails to exercise it. (2) Certiorari will also be issued when the court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard or violates the principles of natural justice. (3) The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous. This is on the principle that a court which has jurisdiction over a subject-matter has jurisdiction to decide wrong as well as right, and when the legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy if a superior court were to rehear the case on the evidence and substitute its own findings in certiorari. These propositions are well-settled and are not in dispute.

23. It may therefore be taken as settled that a writ of certiorari could be issued to correct an error of law. But it is essential that it should be something more than a mere error; it must be one which must be manifest on the face of the record. ... The fact is that what is an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case.”

18. In ***Dharangadhara Chemical Works Ltd. v. State of Saurashtra***, (1957) SCR 152, the Supreme Court, once again observed that where the Tribunal having jurisdiction to decide a question comes to a finding of fact,



such a finding is not open to question under Article 226, unless it could be shown to be wholly unsupported by evidence.

19. In ***Management of Madurantakam Coop. Sugar Mills Limited v. S. Viswanathan***, (2005) 3 SCC 193, the Apex Court, held that the Labour Courts/ Industrial Tribunals as the case be is the final court of facts, unless the same is perverse or not based on legal evidence, which is when the High Courts can go into the question of fact decided by the Labour Court or the Tribunal. But before going into such an exercise it is imperative that the High Court must record reasons why it intends reconsidering a finding of fact. In the absence of any such defect, the writ court will not enter the realm of factual disputes and finding given thereon.

20. In a Constitution Bench judgment of the Supreme Court in ***Syed Yakoob vs. K.S. Radhakrishnan & Ors.***, AIR 1964 SC 477, the Apex Court has, *inter alia*, held as under:

“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 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 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. Syed Ahmed Ishaque, Nagendra Nath Bora v. Commissioner of Hills Division and Appeals, Assam, and Kaushalya Devi v. Bachittar Singh.

8. *It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. What can be corrected by a writ has to be an error of law; but it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious misinterpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly rounded on*



reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record. It may also be that in some cases, the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record. If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconstrued or contravened.”

21. The Hon’ble Supreme Court has in the aforesaid case again dealt with scope of interference by High Court in respect of finding of fact arrived at by Tribunals and in light of the aforesaid judgment, the question of interference by this Court does not arise.

22. The Hon’ble Supreme Court in ***State of Haryana vs. Devi Dutt & Ors.***, (2006) 13 SCC 32, has held that the writ Court can interfere with the factual findings of fact only if in case the Award is perverse; the Labour Court has applied wrong legal principles; the Labour Court has posed wrong questions; the Labour Court has not taken into consideration all the relevant



facts; or the Labour Court has arrived at findings based upon irrelevant facts or on extraneous considerations.

23. In the present case, the Tribunal has arrived at a conclusion based upon the evidence adduced by the parties and the learned Single Judge has affirmed the findings of fact again after minutely scanning the entire evidence, and therefore, the question of interference by this Court does not arise.

24. The supervisory jurisdiction of the High Courts under Article 227 of the Constitution of India, was discussed by the Supreme Court in ***Mohd. Yunus v. Mohd. Mustaqim***, (1983) 4 SCC 566, whereby it was, *inter alia*, held as under:

“7. The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is limited “to seeing that an inferior court or tribunal functions within the limits of its authority”, and not to correct an error apparent on the face of the record, much less an error of law. In this case there was, in our opinion, no error of law much less an error apparent on the face of the record. There was no failure on the part of the learned Subordinate Judge to exercise jurisdiction nor did he act in disregard of principles of natural justice. Nor was the procedure adopted by him not in consonance with the procedure established by law. In exercising the supervisory power under Article 227, the High Court does not act as an appellate court or tribunal. It will not review or reweigh the evidence upon which the determination of the inferior court or tribunal purports to be based or to correct errors of law in the decision.”



25. Furthermore, in *Khalil Ahmed Bashir Ahmed v. Tufelhussein Samasbhai Sarangpurwala*, (1988) 1 SCC 155, the Supreme Court held as under:

“13. The intention here is manifest. In any event this is a possible view that could be taken. This Court in Venkatlal G. Pittie v. Bright Bros. (P) Ltd. [(1987) 3 SCC 558] and Beopar Sahayak (P) Ltd. v. Vishwa Nath [(1987) 3 SCC 693] held that where it cannot be said that there was no error apparent on the face of the record, the error if any has to be discovered by long process of reasoning, and the High Court should not exercise jurisdiction under Article 227 of the Constitution. See in this connection the observations of this Court in Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale [AIR 1960 SC 137 : (1960) 62 Bom LR 146] . Where two views are possible and the trial court has taken one view which is a possible and plausible view merely because another view is attractive, the High Court should not interfere and would be in error in interfering with the finding of the trial court or interfering under Article 227 of the Constitution over such decision.”

26. In light of the aforesaid judgments, the Tribunal has arrived at a conclusion based on evidence that the workman was not appointed as per the procedure laid down in the Recruitment Rules and the person who appointed him had no authority to appoint him. The workman at no point of time applied for regularization in terms of the *Sastry Award* (Bipartite settlement) and was not able to prove before the Tribunal that he has submitted any application at any point of time for regularization and, therefore, the finding of fact arrived at by the Tribunal are based upon evidence and has been affirmed by the learned Single Judge after minutely scanning the entire record. Hence, this Court does not find any reason to interfere with the



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order passed by the learned Single Judge.

27. Accordingly, the present appeal stands dismissed.

SATISH CHANDRA SHARMA, CJ

SANJEEV NARULA, J

JULY 21, 2023

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