

Neutral Citation No:2024:PHHC:045736
CWP-19329-1998(O&M) 1
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CWP-19329-1998(O&M)
Date of Decision: 04.04.2024

THE JIND CO-OPERATIVE SUGAR MILLS LIMITED, JIND
THROUGH ITS MANAGING DIRECTOR

.... Petitioners

Versus

THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, PANIPAT AND ANR

....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Samrat Malik, Advocate for the petitioner.

Mr. Rajinder Goel, Advocate for respondent No.2.

SANJAY VASHISTH, J.(Oral)

1. Petitioner-Jind Co-operative Sugar Mills (being Management) has filed the present writ petition challenging the award dated 06.08.1998 (Annexure P-7), passed by the learned Industrial Tribunal, Panipat, whereby reference filed under Section 10 (1) (C) of the Industrial Disputes Act, 1947 has been answered in favour of respondent No.2-Sushil Kumar (workman).

2. By virtue of said award, learned Tribunal has observed that the order of termination of service of the workman with effect from 09.05.1991 in the shape of pay off order, is not justified and thus, same held to be illegal. Resultantly, by setting aside the action of termination of service of the workman, he was ordered to be reinstated as a Store Boy forthwith also to be given full back wages alongwith

benefit of continuity of service and other consequential benefits.

3. On assailing the award through present writ petition, this Court vide its order dated 21.12.1998 had issued notice of motion and stayed the operation of the impugned award only qua the back wages.

4. I have heard learned counsel for the parties and gone through the impugned award, wherein, the detailed reasons have been given by learned Tribunal by taking note of the fact that regarding pay off there is no specific order on an earlier occasion also and the termination of the petitioner was held to be illegal by Labour Court, Panipat.

Learned Tribunal also took note of the law laid down by this Court (Punjab and Haryana High Court), titled as **“Shri Randhir Singh Vs. State of Punjab and others, 1993 (3) R.S.J. 212, Law Finder Id:546389”** and concluded that paying off, amounts to prohibit the petitioner from joining the duty, which means termination of service.

5. The finding of the fact has been recorded after examining the record by the learned Labour Tribunal and the said finding cannot be re-examined by this Court in routine as is done in the Appellate jurisdiction.

6. Moreover, the Hon’ble Supreme Court has unequivocally established that the jurisdiction of the High Court under Article 226, while issuing the writ of *Certiorari*, is limited. It is primarily aimed at rectifying errors of jurisdiction or instances of violation of the principles of natural justice. Therefore, it constitutes a supervisory role, and High Courts ought to abstain from assuming the function of an appellate court in the writ of *Certiorari*. They should refrain from re-examining the evidence, particularly with regard to its sufficiency

or adequacy. While exercising its power under Article 226 of the

Constitution, High Court must cause interference only when there is error of law, which requires correction and not in general, when there is an error of fact. In **Syed Yakoob v. K.S. Radhakrishnan; 1964 (AIR) Supreme Court 477 : Law Finder Doc Id #81222**, Hon'ble Apex Court observed in Paragraph No. 7 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 improperly, as for instance, it decides a question without giving an opportunity to 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. Ahmad Ishaque, 1955-1 SCR 1104; Nagendra Nath v. Comm. of Hills Division, 1958 SCR 1240

Even, the said view has been reiterated by the Hon'ble Supreme Court recently in *Central Council for Research in Ayurvedic Sciences and Anr. v. Bikartan Das and Others; 2023 AIR (Supreme Court) 4011.*

7. This Court is fully convinced by the reasoning given in the impugned award. Nothing substantial has been produced or addressed by counsel for the petitioner, which calls for any kind of interference in the well-reasoned findings given by learned Tribunal. Accordingly, the present writ petition is dismissed.

April 04, 2024
rashmi

Whether speaking/reasoned
Whether reportable?

[SANJAY VASHISTH]
JUDGE

yes/no
yes/no