



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

206

CWP-3906-1997**Decided on : 23.05.2024**

Maharishi Dayanand University, Rohtak

... Petitioner(s)

Versus

Satya Narain and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Amit Rao, Advocate for
Mr. Anurag Goyal, Advocate
for the petitioner(s).

Mr. R.S. Kundu, Advocate
for respondent No.1.

SANJAY VASHISTH, J. (Oral)

1. By way of present writ petition, petitioner – Maharishi Dayanand University, Rohtak (being Management) has assailed the award dated 14.10.1996 (Annexure P-1), passed by respondent No.2 – Industrial Tribunal-cum-Labour Court, Rohtak (in short, ‘learned Tribunal’), whereby, Reference No.822 of 1992, under Section 10(1)(C) of the Industrial Disputes Act, 1947 (for brevity, ‘ID Act’), has been answered in favour of respondent No.1 – Satya Narain (workman).

2. Pleaded case of the workman (respondent No.1 herein) is that he worked as ‘beldar’ on daily wages during 17.06.1990 to 29.04.1992. During his service period, workman never gave any cause of complaint. However, on 30.04.1992, services of the workman were terminated by the Management, without any reasonable cause. In the claim statement, workman pleaded that he had already completed 240 days in the preceding one year of termination. The termination of the workman was claimed to be



in violation of Section 25-F of the ID Act. Another, plea taken by the workman was that employees junior to him were retained by the Management in service and thus, the principle of “*Last Come, First Go*”, was not followed in violation of Section 25-G & 25-H of the ID Act.

3. In reply to the claim statement, Management (petitioner herein) took a defense through preliminary objections that the University is an ‘autonomous statutory body’ constituted under the MDU Act, 1975 and does not fall within the definition of ‘industry’, and workman was engaged on daily wages basis for specific work and his services were dispensed with on completion of said work. On merits, it has been pleaded that the workman was engaged as casual labour and worked under the SDE (C-I) during the period 17.07.1990 to 30.11.1991. Thereafter, he also worked in January 1992 to April 1992, but he remained absent in February for one day, in March for ten days and in April for two days. Services of the workman were dispensed with, as no longer required. Thus, it has been pleaded that action of the university is legal and valid, and workman had not completed continuous service for one year and thus, provisions of the Act are not attracted.

4. In response thereto, replication was filed by the workman wherein, he specifically denied the averments made in the written statement, and reiterated those made in the claim statement.

5. After examining the evidence, learned Tribunal reached to the conclusion that the working period of workman is not under dispute before it, and also observed that the workman worked during 17.07.1990 to April 1992 with certain breaks, and thus, found that during the period 01.05.1991 to 29.04.1992, workman (Satya Narain) had worked for 302 days. Further



observed that as per the own stand of the Management, the workman had worked for more than 240 days, during the year immediately preceding the date of termination of service i.e. 30.04.1992. Besides, it is also noticed that termination of his services without any notice, notice pay or retrenchment compensation, is against the provisions of law i.e. Section 25-F of the ID Act.

Lastly, learned Tribunal held that the workman is entitled for reinstatement with continuity in service along with full back-wages.

6. After going through the pleadings of the parties and the appended documents including the impugned award, this Court is also in agreement with the reasoning assigned by learned Tribunal and does not find any substantial reason to cause interference with the same.

Moreover, under Article 226 of the Constitution of India, exercising the jurisdiction like an appellate Court, is neither warranted nor appreciated by the Hon'ble Apex Court. Thus, as per the dictum of the Hon'ble Apex Court, rendered in **Syed Yakoob v. K.S. Radhakrishnan; 1964 (AIR) Supreme Court 477 : Law Finder Doc Id #81222**, this Court does not find any substantial reason to deviate from the view point taken by the learned Tribunal.

7. Moreover, Hon'ble the Apex Court has unequivocally established that the jurisdiction of the High Courts under Article 226, while issuing the writ of *Certiorari*, is limited. It is primarily aimed at rectifying the 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 while dealing with the issue of writ of *Certiorari*. High Courts should refrain from re-



examining the evidence, particularly with regards 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 error of fact. In **Syed Yakoob's case (supra)**, 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 and Kaushalya Devi v. Bachittar Singh, AIR 1960 Supreme Court 1168.)”

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.**

8. During the arguments, counsel for the petitioner – Management, produces a copy of order dated **17.01.2006**, passed by this High Court in **CWP-11587 of 2004**, titled as, **“Satya Narain and another vs. The Maharishi Dayanand University, Rohtak and others”**, wherein, following orders were passed:-

“Present: Mr. Ramesh Hooda, Advocate for the petitioners.

Mr. Ramender Chauhan, Advocate for Mr. S.S. Ahlawat, Advocate for the respondents

** * **

Qua petitioner No.2, the petition is dismissed as having been rendered infructuous as necessary relief has already been granted to the aforesaid petitioner.

In the written statement respondents have stated that the award which has been passed in favour of the petitioners by the Labour Court has been challenged in CWP No.3906 of 1997. Consequently, the services of the petitioners have not been regularized, even though services of persons junior to him have been regularized. In our opinion, the pendency of the writ petition is no ground to deny the petitioners’ the relief of regularization. Admittedly the



services of persons junior to the petitioners have been regularized. Consequently, we allow the writ petition and direct the respondents to consider the claim of the petitioners for regularization in accordance with the rules/policy applicable in the facts and circumstances of the case. In case, the persons junior to the petitioners have been regularized and the claim of the petitioners is accepted, the relief of regularization be granted to the petitioners from the date the persons junior to them have been ordered to be regularized.”

Besides, photocopies of the office notings have also been produced. A perusal of the same reveals that in compliance to the order/judgment dated 17.01.2006, passed by this High Court, respondent No.1 – Satya Narain (workman) was regularized w.e.f. 07.10.1998 as T.Mate. Thereafter, he was promoted on the post of Electrician G-II on 03.02.2020 and stands retired from the University services on 30.11.2020, on attaining the age of superannuation with all retiral benefits.

Copy of the High Court order/judgment dated 17.01.2006 and photocopies of the office notings, are taken on record, subject to all just exceptions. Office to tag the same at appropriate place in the case file.

9. Thus, it is obvious that respondent No.1 – workman had been retained in service by the petitioner – Management, in compliance to the order/judgment dated 17.01.2006 passed by this High Court and by implementing the award, which is under challenge before this Court.

10. As discussed here-above, respondent No.1 – workman, after being regularized in service and on attaining the age of superannuation, has retired from the university services (petitioner – Management herein). Besides, there is a judicial finding in his favour whereby, his termination is held to be bad. On the one hand, finding of the learned Tribunal appears to be according to the settled law and on the other hand, justice also demands that after a period of more than three decades, the services of the workman



should not be questioned, especially, when after rendering his services to the petitioner – University/Management, he already retired on attaining the age of superannuation on 30.11.2020.

11. At the time of submissions before this Court, there is no such allegation pointed out by the petitioner – Management that the services of respondent No.1 – workman, was not to the satisfaction of the Management or there was any other serious allegation against him.

Rather, it appears that after regularization of services of respondent No.1 – workman, and his retirement on 30.11.2020 after attaining the age of superannuation, no reason is left with the petitioner – Management to contest the well reasoned findings recorded in the impugned award.

12. Therefore, on the basis of aforementioned facts and circumstances and the reasons recorded herein-above, while maintaining the award dated 14.10.1996 (Annexure P-1), present writ petition is hereby **dismissed**.

Needless to say, that any other relief, if is due to be extended to respondent No.1 – workman by the petitioner – Management, in pursuance to the award 14.10.1996 (Annexure P-1), same be extended to him, without any delay, preferably, within a period of three months from today.

(SANJAY VASHISTH)
JUDGE

May 23, 2024

J.Ram

Whether speaking/reasoned: ✓ Yes/~~No~~

Whether Reportable: ✓ Yes/~~No~~