

CWP-8458-1998

- 1 -

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CWP-8458-1998

Decided on : 20.03.2024

Ram Parkash Punia

. . . Petitioner(s)

Versus

Presiding Officer, Labour Court,
Ambala and another

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. C.L. Sharma, Advocate and
Ms. Shailly Sharma, Advocate
for the petitioner(s).

Mr. Lalit Thakur, Advocate
for respondent No.2.

SANJAY VASHISTH, J. (Oral)

1. Petitioner – Ram Parkash Punia, has filed present writ petition, assailing the award dated 14.03.1997 (Annexure P-4), passed by respondent No.1 – Presiding Officer, Labour Court, Ambala, whereby, Reference No.2 of 1991, referred under Section 10(1)(C) of the Industrial Disputes Act, 1947 (in short, ‘ID Act’), has been answered against him.

2. Petitioner – workman while working with Hindustan Machine Tools Limited (HMT), Pinjore, raised an industrial dispute by serving a demand notice dated 14.07.1990. The workman pleaded that he was employed by respondent No.2 – Management on 23.07.1974, and performed his duty till 13.07.1988, when he was dismissed from the service after issuance of charge-sheet dated 11.03.1988 (Annexure P-1).

3. After examining the evidence, learned Labour Court, has held in specific that the inquiry conducted by the Management was fair and in

accordance with law.

Since the finding of fact has already been recorded by the learned Labour Court on the basis of the material available before it, 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.

4. Moreover, the Hon'ble Supreme 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 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 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.

CWP-8458-1998

- 4 -

5. Besides above, this Court is informed that the respondent – Establishment has also shut down more than a decade back. Therefore, no purpose is going to be served by entertaining the present writ petition, at this stage.

6. Therefore, on the basis of aforementioned facts and circumstances and the reasons recorded herein-above, this Court does not find any illegality or perversity in the impugned award dated 14.03.1997 (Annexure P-4), passed by the learned Labour Court. Hence, present writ petition stands **dismissed**.

(SANJAY VASHISTH)
JUDGE

March 20, 2024

J.Ram

Whether speaking/reasoned: ✓ *Yes/No*

Whether Reportable: ✓ *Yes/No*