

213-1

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP No.14420 of 2005 (O&M)****Date of Decision:18.04.2024**

Managing Director, Pepsu Road Transport Corporation & Another

...Petitioners**Versus**

Presiding Officer, Labour Court and Another

...Respondents**CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**Present: Mr. Aman Sharma, Advocate
for the petitioner-PRTC.Mr. Vikash Chatrath, Advocate with
Mr. Abhishek Singla, Advocate
Mr. Akshat Kalia, Advocate and
Ms. Preetlin Kaur, Advocate
for the respondents.

SANJAY VASHISTH, J. (Oral)

1. By way of present petition, petitioner i.e. Pepsu Road Transport Corporation (PRTC), Management has assailed the award dated 01.06.2005 passed by learned Labour Court, Patiala whereby Ref. No.146/1998 under Section 10(1) of the Industrial Disputes Act, 1947 has been answered in favour of respondent No.2 i.e. Jaswant Singh.

2. Brief facts of the case are that the petitioner joined the services of the Management on the post of Driver w.e.f. 07.02.1979. However, on account of absence from duty from 13.10.1995 to 15.02.1996, a departmental enquiry was conducted and his services were ordered to be terminated. Against the said termination order, workman raised an industrial dispute. Ld. Tribunal held that the workman had remained unauthorizedly absent for a period of 04 months and 04 days, however, considering the total

length of service rendered to the Management i.e. about 17 years and on the principle of judicial discretion, learned Labour Court decided the reference against the Management, and ordered to reinstate the petitioner, however, no backwages were awarded.

3. On 12.09.2005, following order was passed by this Court :

“ Learned counsel for the petitioner states that the Labour Court having accepted that the charge levelled against the respondent-workman had been substantiated, could have reduced the punishment inflicted upon him, but could not have allowed him to go scot free without imposition of any punishment.

Admitted.”

4. The Court is informed that the termination order is dated 31.12.1996 and the reference was decided by the learned Labour Court on 01.06.2005. Before passing the award, the workman had attained the age of superannuation on 30.04.2005. Learned counsel for the respondent also informs the Court that after retiring from the service, all the pensionary benefits have been released to the petitioner and the workman has been receiving pension. On the basis of the said fact, Mr. Vikas Chatrath submits that the relief granted by the Labour Court cannot be altered at this stage by making it effective retrospectively and therefore, the present writ petition deserves to be dismissed without calling upon any interference in the findings recorded in the award passed by the Labour Court concerned.

5. On the other hand, learned counsel for the petitioner-Management submits that once, there is a finding that a departmental enquiry has been conducted in due course of law, the decision taken by the authority ought to have been maintained in regard to the termination of the workman after taking note of the factual aspects as stated above. It is also not disputed that the operation of the impugned award was, however, stayed by this Court during the pendency of the present petition.

6. This Court does not find any substantial reason to deviate from the view point taken by the learned Tribunal.

7. 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 reexamining 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 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 and Kaushalya Devi v. Bachittar Singh, AIR 1960 Supreme Court 1168.)”

8. 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.**

9. Therefore, on the basis of aforementioned facts and circumstances and the reasons recorded, the present writ petition stands **dismissed.**

18th April, 2024

Sonia Puri

(SANJAY VASHISTH)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/ No.