

CWP-18313-2011 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-18313-2011 (O&M)

Decided on : 08.02.2024

Manoj Kumar

. . . Petitioner(s)

Versus

Presiding Officer, Industrial Officer,
Industrial Tribunal-cum-Labour Court,
Hisar and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Ajit Sihag, Advocate
for the petitioner(s).

Mr. Satish Singla, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

1. Petitioner – Manoj Kumar, has filed the present writ petition, challenging the award dated 28.03.2011 (Annexure P-4), passed by respondent No.1 – learned Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar (in short, ‘learned Tribunal’).

2. Reference No.10 of 2006, has been answered against the petitioner – workman, whereby, it has been held that the workman failed to prove that he worked for 240 days with the respondent – Department/Management, in the preceding year of his termination from service.

Petitioner – workman could not produce any documentary evidence *qua* proving the fact that, he worked for 240 days in the office of the respondent – Management. Only, he himself appeared as WW2 and also got examined one of his co-worker i.e. Laxman Narain as WW3. Except the oral assertion, there is nothing on record.

3. On the other hand, respondents produced the muster rolls Ex.WW1/A to WW1/I, and also gave details of the working period. As per the muster rolls produced before the learned Tribunal, the working period of the workman is only 128 days, and same is also reproduced herein-below:-

<i>Month/Year</i>	<i>MR No.</i>	<i>Total days</i>	<i>Sub Division</i>
8/97	424	10 days	-do-
9/97	409	15 days	-do-
10/97	517	20 days	-do-
3/98	30, 36	20 days 5+15	-do-
6/98	123	15 days	-do-
7/98	154	15 days	-do-
8/98	192/1/2	10 days	-do-
9/98	477-1/2	15 days	-do-
10/98	357	8 days	-do-
		----- 128 days	

4. Thus, in the absence of any strong evidence, this Court is unable to deviate from the view point taken by the learned Tribunal.

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

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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.**

5. Therefore, in the facts and circumstances of the case, and keeping in view the law laid down by the Hon'ble Apex Court, present writ petition stands **dismissed**.

**(SANJAY VASHISTH)
JUDGE**

February 08, 2024

J.Ram

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

Whether Reportable: ✓ Yes/~~No~~