

Neutral Citation No:2024:PHHC:032859
CWP-19424-2016(O&M) 1
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-19424-2016(O&M)
Date of Decision: 06.03.2024

PEPSU ROAD TRANSPORT CORP. AND ANR

.... Petitioners

Versus

JEET SINGH AND ANR

....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Anupam Singla, Advocate for the petitioners.

Mr. Vikas Singh, Advocate for respondent No.1.

SANJAY VASHISTH, J.(Oral)

1. Petitioner-Pepsu Road Transport Corporation (being Management) has filed the present writ petition challenging the award dated 04.03.2016 (Annexure P-5), passed by the learned Industrial Tribunal, Jalandhar, whereby reference No. 462 of 2007 has been answered in favour of respondent No.1-Jeet Singh (workman).

2. Respondent No.1-Jeet Singh (workman) was appointed as a driver with Pepsu Road Transport Corporation w.e.f 17.03.2001 on a salary of Rs.3750/- per month and his services were terminated by the Management on 26.06.2005.

Learned Tribunal held that the termination of the workman from service was bad in law, as the action was in violation of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 (for short, the Act of 1947'). The workman was ordered to be

reinstated on the same post and same terms and conditions with continuity of service and full back wages for the intervening period.

3. Petitioner-Management, challenged the award before this Court by way of present writ petition and vide order dated 19.09.2016, this Court while issuing notice of motion, stayed back wages only as an interim relief, but nothing was observed regarding the other reliefs granted under the impugned award.

4. While recording its findings in paragraph No.9 of the impugned award, learned Tribunal held that the allegations levelled by the petitioner-Management were not found to be correct as no such evidence has been led by the Management that financial loss has been caused to it due to any action of workman. Vide order dated 06.07.2005, services of the workman were terminated without giving any opportunity for a hearing. Learned Tribunal also observed that admittedly, workman continuously worked with the Management from 17.03.2001 to 26.06.2005, and at the time of retrenchment, no compensation was given. Thus, there was a clear violation of Section 25-F of the Act of 1947 as never any notice, notice pay or retrenchment compensation was given.

Not only this, Gurnam Singh, who appeared from the side of the Management deposed during his cross-examination that the management maintains a seniority list of the employees and ten of the employees junior to the workman are still working with the Department. Thus, Learned Tribunal held that there is a clear violation of Section 25-G of the Act of 1947, and infact, the principle of “first come, last go” has not been followed.

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 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.**

7. I have gone through the pleadings and examined the documents appended with the present petition and heard counsel for the parties. 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.

8. In alternate, learned counsel for the petitioner submits that there is nothing substantial brought on record by the workman that he was not gainfully employed anywhere from the date of termination till the date of passing of the award.

9. I have gone through the record available before this Court. No such material is available and/or placed on record by

Therefore, in the considered view of this Court, instead of holding the workman entitled to 100% wages, this Court deems it **appropriate to reduce the entitlement of back wages to 50%.**While maintaining the award, the writ petition is disposed of, however the finding qua the entitlement of back wages stands modified as recorded hereabove.

10. At this stage, Court is informed by the respondent-workman that in compliance to the award, he was reinstated in service and after attaining the age of superannuation, he retired on 30.04.2022. Thus, he would be entitled to all the benefits under the impugned award and the consequential rights accrued to him, thereafter also.

11. Undoubtedly, once on the material aspect qua the rights of the workman, award has been maintained, it would be expected from the petitioner-Management that all the consequential benefits/rights accruing to the workman or as a consequence during the subsequent period would be extended to the respondent-workman without causing any undue delay.

March 06, 2024

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Whether speaking/reasoned

Whether reportable?

[SANJAY VASHISTH]

JUDGE

yes/no

yes/no