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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Decided on : 20.02.2024

Bachittar Singh

. . . Petitioner(s)

Versus

Presiding Officer, Industrial Tribunal,
Amritsar and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. M.K. Dogra, Advocate
for the petitioner(s).

Mr. Kulraj Rai, Sr. DAG, Punjab.

Ms. Meena Bansal, Advocate
for respondents No.2 to 4.

SANJAY VASHISTH, J. (Oral)

1. The impugned award dated 14.03.2012 (Annexure P-5), has been challenged by the petitioner – workman, whereby, respondent No.1 - learned Industrial Tribunal, Amritsar (in short, ‘learned Tribunal’), answered the claim against him.

2. The claim has been rejected on the ground of delay of nine years, and also on merits by submitting that in fact, it is a case of abandonment. The relevant finding given in the award in paragraph No.17, are reproduced here-under:-

“17. After detailed discussion and on appreciating the law, this Tribunal comes to the conclusion that the workman remained silent for a considerable period of nine years and the claim is barred by limitation. The workman abandoned his job on 31.7.1993 and no evidence has come on the file that his services were terminated on 1.5.1997 as alleged in the

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statement of claim/demand notice, the workman never rendered the services of 2420 days with the Managements in the last preceding 12 months of his termination, rather sufficient evidence has come on file that workman served only for 7224 days in four years i.e. from June 1989 to 31.7.1993. His services were never terminated as on 1.5.1997. Accordingly, all the four issues stand determined against the workman and in favour of the Managements.”

3. Nothing has been highlighted by the counsel for the petitioner to say that there is any illegality or perversity in the award.

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

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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.**

4. Besides, this Court is not sitting in the appellate jurisdiction to reopen the complete set of evidences to examine the right of the parties afresh. Thus, being convinced with the observation made in the impugned award, same is hereby maintained and the writ petition is **dismissed**.

(SANJAY VASHISTH)
JUDGE

February 20, 2024

J.Ram

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

Whether Reportable: ~~Yes~~/No ✓