



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision: 08.08.2025

1. CWP-31864-2024

Sanjeev Gupta

.... Petitioner

Vs.

**Commissioner Under Employees Compensation Act Ambala
and others**

.... Respondents

2. CWP-31916-2024

Sanjeev Gupta

.... Petitioner

Vs.

**Commissioner Under Employees Compensation Act Ambala
and others**

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Shadab Ahmad, Advocate,
for the petitioner(s)

Mr. Naveen S. Panwar, DAG, Haryana.

Mr. R.S. Kushwaha, Advocate,
for respondents No.2 and 3.

KULDEEP TIWARI, J (Oral)

1. Both these writ petitions are amenable to being decided together through a common verdict on account of their enclosing a common issue for adjudication.

2. The award dated 6.6.2024, has been challenged by the petitioner(s) on the ground that there is no relationship of employer and employee, and therefore, the liability fastened upon the petitioner(s) is totally erroneous.

3. The learned counsel for the respondent(s) took a preliminary objection with regard to maintainability of the instant petition, on the ground



that, the impugned award, in fact, is appealable under Section 30 of the Employees Compensation Act, 1923 (for short, 'the Act'). He further submits that the petitioner has earlier filed first appeal against the impugned order before this Court. However, once the Registry raised the objection to make compliance of the 3rd Proviso to Section 30 of the Act, the petitioner cleverly filed the instant petition in order to wriggle out to pay the entire compensation. He further submits that the petitioner(s) in the petition itself has raised the substantial question of law, and also raised the issue of disputed relationship of employer and employee, therefore, the only remedy available is to file statutory appeal instead of writ petition.

4. Learned counsel for the petitioner(s), on the other hand, submits that this Court is bestowed with inherent jurisdiction under Article 226/227 of the Constitution of India, to set aside the impugned award, even if the available statutory remedy of appeal remains un-availed. Therefore, he cannot be debarred to file the instant petition.

5. This Court has heard the submissions advanced by the learned counsels for the parties and has also made a studied survey of the record. There is no wrangle that, the availability of an alternative remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution of India. However, such powers cannot be exercised as a routine practice. This issue has been considered by the Hon'ble Supreme Court in a catena of judgments. In a recent judgment passed by the Hon'ble Supreme Court in ***"M/s Radha Krishan Industries V. State of Himachal Pradesh & Ors."***, 2021(4) PLR 738, the basic principles regarding the maintainability of a writ petition before the High Court, in cases where a



statutory remedy is available, have been set down. The relevant paragraph of the judgment is reproduced hereunder:-

“27. The principles of law which emerge are that :

- (i) The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well;*
- (ii) The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;*
- (iii) Exceptions to the rule of alternate remedy arise where*
 - (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution;*
 - (b) there has been a violation of the principles of natural justice;*
 - (c) the order or proceedings are wholly without jurisdiction;*
or
 - (d) the vires of a legislation is challenged;*
- (iv) An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;*
- (v) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and*
- (vi) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.*



28. These principles have been consistently upheld by this Court in Seth Chand Ratan v Pandit Durga Prasad, (2003) 5 SCC 399, Babubhai Muljibhai Patel v Nandlal Khodidas Barot, (1974) 2 SCC 706 and Rajasthan SEB v. Union of India, (2008) 5 SCC 632 among other decisions.”

6. In **“Punjab National Bank V. O.C.Krishnan”, (2001) 6 SCC 569**, the Hon’ble Supreme Court considered the question whether a petition under Article 227 of the Constitution was maintainable against an order passed by the Tribunal under Section 19 of the DRT Act and observed as under:-

“6. The Act has been enacted with a view to provide a special procedure for recovery of debts due to the banks and the financial institutions. There is a hierarchy of appeal provided in the Act, namely, filing of an appeal under Section 20 and this fast-track procedure cannot be allowed to be derailed either by taking recourse to proceedings under Articles 226 and 227 of the Constitution or by filing a civil suit, which is expressly barred. Even though a provision under an Act cannot expressly oust the jurisdiction of the Court under Articles 226 and 227 of the Constitution, nevertheless, when there is an alternative remedy available, judicial prudence demands that the court refrains from exercising its jurisdiction under the said constitutional provisions. This was a case where the High Court should not have entertained the petition under Article 227 of the Constitution and should have directed the respondent to take recourse to the appeal mechanism provided by the Act.”

7. In **“U.P. State Spinning Co. Ltd. V. R.S. Pandey and Anr.” 2005(4) S.C.T. 430**, the Supreme Court held that, if somebody approached the High Court without availing the alternative remedy provided, the High Court should ensure that he has made out a strong case or that there exist



good grounds to invoke the extra-ordinary jurisdiction. The relevant observations are extracted hereinafter:-

“11. Except for a period when Article 226 was amended by the Constitution (42nd Amendment) Act, 1976, the power relating to alternative remedy has been considered to be a rule of self imposed limitation. It is essentially a rule of policy, convenience and discretion and never a rule of law. Despite the existence of an alternative remedy it is within the jurisdiction of discretion of the High Court to grant relief under Article 226 of the Constitution. At the same time, it cannot be lost sight of that though the matter relating to an alternative remedy has nothing to do with the jurisdiction of the case, normally the High Court should not interfere if there is an adequate efficacious alternative remedy. If somebody approached the High Court without availing the alternative remedy provided the High Court should ensure that he has made out a strong case or that there exist good grounds to invoke the extra-ordinary jurisdiction.”

8. On the anvil of the above legal propositions, this Court has examined the issue of maintainability of these writ petitions, and is of the view that, these writ petitions are misconceived motion, inasmuch as none of the claims and pleas raised in these writ petitions entitle the petitioner(s) to sidetrack the statutory remedy, and to file these writ petitions instead of instituting statutory appeal(s), especially when statutory appeal(s) is to be instituted before this Court itself.

9. Moreover, from the facts narrated hereinabove, it transpires that these writ petitions have been filed in order to avoid making payment of the statutory amounts, and on this ground also, these writ petitions are held to be not maintainable.

10. In summa, since the petitioner(s) is seized of an alternative and efficacious remedy of filing statutory appeal, therefore, this court refrains



from granting the asked for relief. Consequently, these writ petitions are **dismissed** being non maintainable. However, liberty is reserved to the petitioner(s) to avail the apposite remedy by filing statutory appeal, if so advised.

11. A photocopy of this order be placed on the file of connected matter.

(KULDEEP TIWARI)
JUDGE

08.08.2025
deepak/devinder

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No