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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 1233/2025, CM APPLs. 6034/2025 & 6035/2025**

COMMISSIONER OF POLICE & ANR.Petitioners

Through: Mr. Syed Abdul Haseeb,
CGSC.

versus

KUMARI SANGEETARespondent

Through: Ms. Rhea Verma, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

% **31.01.2025**

C. HARI SHANKAR, J.

1. This petition assails judgment dated 9 September 2024 passed by the Central Administrative Tribunal¹ in OA 1767/2022.

2. The aforesaid OA was filed by respondent Sangeeta, assailing order dated 7 July 2022, whereby she was terminated from service.

3. The facts are brief.

4. In response to an advertisement dated 1 August 2020, issued by

¹ "the Tribunal", hereinafter



the Staff Selection Commission² for recruitment to the post of Constable (Executive) (Male and Female), the respondent applied. She participated in the examination. She was successful. Offer of appointment was issued to her on 24 February 2022. She joined pre-appointment training on 14 March 2022.

5. The appointment of the respondent was specifically stated to be provisional, pending receipt of satisfactory police verification report from the concerned authority.

6. In the attestation form filled up by the respondent on 14 January 2022, while applying for recruitment to the post of constable, one of the columns required her to state whether any FIR had been registered against her. Her response was “No”.

7. The respondent also subscribed to an undertaking on 10 March 2022, affirming that she had not concealed any fact in her application form or in her attestation form.

8. Apparently, on subsequent verification, from the police authorities, it came to the knowledge of the petitioners that the respondent was an accused in FIR 39/2016 dated 08.01.2016, registered against her at PS Sikandra, Agra under Sections 147/148/323/427/452/504/506 of the Indian Penal Code, 1860³. Alleging that the respondent had suppressed the fact of her

² “SSC”, hereinafter

³ “IPC”, hereinafter



involvement in the aforesaid criminal case, the petitioners, by order dated 7 July 2022, terminated the services of the respondent.

9. We deem it appropriate to reproduce the said order in *extenso*, thus:

“ORDER

W/Rect. Const. KM Sangeeta, No. 46148/DPA (PIS No. 28222832) (Roll No. 3001614054) D/o Shri Ganga Ram, R/o H. No 225, Village Singna, P.O. Keetham, Police Station Sikandra, Tehsil Kiraoli, Distt. Agra, UP-282007, has applied for the post of Constable (Exe.) Female in Delhi Police 2020 and declared selected provisionally, subject to satisfactory verification of Character & antecedents, medical fitness and final checking of documents etc. She joined Delhi Police on 14.03.2022 and is undergoing basic training at Delhi Police Academy-I, Jharoda Kalan, New Delhi. The police verification report received in Recruitment Cell, Delhi Police from SSP/Agra (U.P), it is revealed that candidate i.e. W/Rect. Const. KM Sangeeta, No. 46148/DPA (PIS No. 28222832) (Roll No. 3001614054) was involved in criminal case vide FIR No. 39/2016, u/s 147/148/323/427/452/504/506 IPC, PS Sikandra, Agra (UP) and her name was removed during enquiry by the local police. At the time of filling up of Attestation Form, she did not mention about her involvement in the above said criminal case in the relevant column of Attestation Form filled up by her on 14.01.2022 & furnished wrong information and concealed the facts of her involvement in criminal case. At Column No. 1 of the Attestation Form it is clearly mentioned that furnishing of false information or suppression of any factual information in the Attestation Form would be disqualification and is likely to render the candidate unfit for employment under the Govt. Thus, she had suppressed her criminal involvement in Attestation Form. The concealment of facts regarding involvement in criminal case at initial stage clearly reflects her melafide intention.

In pursuance of the proviso to Sub-Rule (1) of Rule-5 of Central Civil Service (Temporary Service) Rules- 1965 and Point 02 (A)(i) of S.O. No. HRD/12/2022, I, Dharendra Pratap Singh, Deputy Director (Admin.), Delhi Police Academy, Jharoda Kalan, New Delhi hereby terminate forthwith the services of W/Rect. Const. KM Sangeeta, No. 46148/DPA (PIS No. 28222832) (Roll No. 3001614054) and direct that she shall be entitled to claim a sum



equivalent to the amount of his pay and allowances for a period of one month (in lieu of the period of notice) calculated at the same rate at which he was drawing them immediately before the date on which this order is served or, as the case may be tendered to her.

Her particulars are as under:-

W/Rect. Constable (Exe.) : KM Sangeeta, No. 46148/DPA (PIS
No. 28222832)

Father's Name : Shri Ganga Ram
Address : H. No 225, Village Singna, Post
Keetham, PS Sikandra, Tehsil
Kiraoli Distt. Agra, UP-282007.

(DHIRENDRA PRATAP SINGH)
DEPUTY DIRECTOR : ADMIN
DPA, JHARODA KALAN, DELHI"

10. Aggrieved by her termination, the respondent approached the Tribunal by way of OA 1767/2022. The said OA stands allowed by the Tribunal by judgment dated 9 September 2024, which has quashed the order dated 7 July 2022 and directed that she be reinstated in service with consequential benefits.

11. Aggrieved thereby, the Commissioner of Police has approached this Court by means of the present writ petition.

12. The reasoning which prevailed with the Tribunal in passing the impugned order, is contained in paras 11 to 19 of the impugned judgment, which may be reproduced thus:

"11. Learned counsel for the applicant has further argued that only for the reason that in the case diary the concerned Inquiry Officer has recorded that he has inquired from the applicant about her involvement in the said case FIR is of no consequence. He submits that even the case diary does not indicate that any notice and/or summon was ever issued or served upon the applicant



and/or the applicant was informed about her such involvement. He has further argued that in light of the decision of the Hon'ble High Court of Guwahati in the case of *State of Assam and Ors. v Niranjana Ghosh*⁴, the case diary cannot have the value of evidence in a trial.

12. On the other hand, Mr. Bhatt, learned counsel for the respondents, by referring to the assertions made in the counter reply has vehemently argued that the applicant did not mention the facts about the said FIR No. 39/2016 while filling up the Attestation Form on 14.01.2022. Thus, the action taken against her vide the impugned order is in accordance with the provisions of offer of appointment read with the provisions of the relevant Standing Order No. 398/2018 as well as those of the CCS (Temporary Service) Rules, 1965. In light of the same, he has argued that interference by this Tribunal in the impugned order is not warranted as the same is beyond the Tribunal's jurisdiction of judicial review.

13. In support of his arguments, learned counsel for the respondents has placed reliance upon the judgment dated 23.07.2024 passed by the Hon'ble Supreme Court in Civil Appeal No. 7933/2024 titled *Union of India v Shishu Pal*⁵.

14. We have considered the submissions made by learned counsels for the parties.

15. From the aforesaid facts, it is evident that the applicant has been terminated from service vide the impugned order dated 07.07.2022 on the ground of her involvement in case FIR No. 39/2016 and being held guilty of concealment of facts regarding Attestation Form and undertaking subsequent thereto. Thus, the issue arises as to whether in the aforesaid facts, the applicant can be held guilty of suppression of her involvement in criminal case.

16. The issue in hand is no more *res integra* in view of the law laid down by the Hon'ble Apex Court in *Avtar Singh v UOI*⁶, para 38 of which reads as under:-

“38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of the aforesaid discussion, we summarise our conclusion thus:

⁴ (1995) 1 Gau LR 427

⁵ 2024 SCC OnLine SC 1769

⁶ (2016) 8 SCC 471



38.1. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

38.2. While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.

38.3. The employer shall take into consideration the government orders/ instructions/rules, applicable to the employee, at the time of taking the decision.

38.4. In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourses appropriate to the case may be adopted:

38.4.1. In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.

38.4.2. Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

38.4.3. If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

38.6. In case when fact has been truthfully declared in



character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion, may appoint the candidate subject to decision of such case.

38.7. In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.

38.8. If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

38.9. In case the employee is confirmed in service, holding departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

38.10. For determining suppression or false information attestation/ verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

38.11. Before a person is held guilty of suppression or suggestion of false information, knowledge of the fact must be attributable to him."

17. In view of the aforesaid facts, we are of the considered view that the applicant cannot be held guilty of suppressing information regarding her involvement in the case FIR No. 39 of 2016 and in any other case FIR while filling up the Attestation Form and the Undertaking given before the respondents as referred hereinabove in light of the law laid down by the Hon'ble Apex Court in the case of **Avtar Singh** (*supra*), particularly in para 38.11.



18. So far as reliance of respondents on the judgment of the Hon'ble Apex Court in the case of *Shishu Pal (supra)* is concerned, we have gone through the same. In the said case it was found by the Hon'ble Apex Court that the respondents had not only failed to disclose that the applicant therein remained in judicial custody and on moving application, was released on bail by the Trial Court along with other co-accused. Thus, in the said case the applicant was fully aware of not only involvement of his name in the said case FIR, but he was also aware that he was arrested in the said case FIR, and therefore, the judgement of Hon'ble Apex Court in the case of *Shishu Pal (supra)* is of no help to the defense of the respondents.

19. In light of the aforesaid, the present OA deserves to be allowed and the same is accordingly allowed with following directions:-

- (i) The impugned order dated 07.07.2022 is quashed and set aside.
- (ii) The applicant shall be treated in continuous service from the date of her joining.
- (iii) The applicant shall be entitled for all consequential benefits, i.e., continuity of service, seniority, arrears of pay, fixation of pay at par with other similarly placed persons.
- (iv) The aforesaid directions shall be complied with by the respondents as expeditiously as possible and preferably within six weeks from the date of receipt of a copy of this Order."

13. We have heard Mr. Haseeb, learned Counsel for the petitioners and Ms. Rhea Verma, learned Counsel for the respondent.

14. Mr. Haseeb places reliance on the judgment of the Supreme Court in *Satish Chandra Yadav v UOI*⁷ and of a Division Bench of this Court in *Anil Kumar v UOI*⁸.

⁷2022 SCC OnLine SC 1300

⁸ 2022 SCC OnLine Del 3605



15. Both the aforesaid judgments, in our considered opinion, are clearly distinguishable. In both these cases, the candidate concerned *was aware of the institution of the FIR against him* and, in full awareness of the said fact, had resorted to misstatement while applying for the post concerned.

16. In *Anil Kumar*, the candidate in response to a show cause notice issued to him, replied as under:

“I hereby submit that the facts like FIR registered against me in P.S. Pilua, my jail term and my bail from the court regarding my character verification, I am neither aware of any such fact nor I have done any such act. Sir, I have never been arrested nor I have ever been granted bail from the court. Sir, I am unaware of any such FIR and incident. Therefore, at the time of recruitment, in enrolment form question no. 1 to 17, whatever informations I have furnished, are cent-percent true to my knowledge. Through these, it seems that either my neighbour or some other person has conspired to frame me. ”

17. The Division Bench of this Court notes that the aforesaid statement of the candidate was found to be false and untrue.

18. Mr. Haseeb has drawn our attention to para 10 of the judgment in *Anil Kumar* which, to the extent he relies thereon, reads thus:

“10. The case of the respondents before this Court is qua non-disclosure and also qua supplying false information of the FIR by the petitioner. Though the petitioner has protection by virtue of the Act for the non- disclosure made by him but, in our view, he cannot claim any protection for supplying false information twice, as the petitioner on the second occasion had admittedly attained majority and was gainfully under the services of BSF. Without going into the merit or the status of the FIR, *the petitioner was duty-bound to truthfully apprise the respondents about the actual*



true status thereof. Having not done so, the petitioner is grossly guilty of both withholding and for divulging wrong fact about the FIR on more than one occasion.”

(Emphasis supplied)

19. The reliance is obviously misplaced. It goes without saying that one can be required to “truthfully apprise” the authorities only of a fact of which one has knowledge.

20. Insofar as **Satish Chandra Yadav** is concerned, the respondent Satish Chandra Yadav, in that case, had earlier approached this Court under Article 226 of the Constitution of India by way of WP(C) 1167/2018. While dismissing the said writ petition, this Court observed thus:

“9. The fact remains that FIR No. 1015/2008 was registered at P.S. Khalilabad against the Petitioner and placed under Sections 147/323/324/504/506 IPC. *Admittedly, the Petitioner got bail in the above Criminal case which was for cognizable offences. It is not therefore the case where the time of filing up of the verification form-25 the Petitioner was not aware of the pendency of the Criminal case against him.*

11. In the present case, on the date of filling up of the verification form the criminal case against the Petitioner was very much pending. The fact that the charge sheet had been filed after the filling up the form will not make any difference to the fact that *the Petitioner deliberately gave a wrong answer to the question whether any case was pending against the Petitioner. This could not be termed as innocent.* The Petitioner is applying for the post of Constable in a para military organization and is expected to be truthful in all responses to the columns in the verification form. *At the time of filling up of that form the Petitioner was very much aware of the pendency of the criminal case.* Therefore, there could be no excuse for not filling up the correct answer in response to the question under Column 12.



12. For the aforementioned reasons, the Court finds no reason to interfere with the impugned order of the DA which was confirmed by the AA.”

21. When the matter was carried to the Supreme Court, in the very opening paragraph of the Analysis, as contained in the judgment, the Supreme Court notes the undisputed facts, thus:

“25. The following facts are not in dispute:

25.1 The verification form was filled up by the appellant on 2-9-2014.

25.2 A first information report was registered against the appellant herein and others on 26-5-2008 for the offences punishable under Sections 147, 148, 323, 324, 504 and 506, respectively, of the IPC.

25.3 *Upon registration of the FIR on 26-5-2008, the appellant herein filed two applications in the Court of the Chief Judicial Magistrate, Sant Kabir Nagar, one application seeking to surrender himself before the Court in connection with the FIR referred to above and the second application seeking for regular bail.*

25.4 *It appears that the appellant upon surrendering before the Chief Judicial Magistrate was taken in deemed judicial custody with effect from 6-6-2008 and was ordered to be released on bail on 10-6-2008. It appears that the appellant was not actually put behind bars as asserted by the appellant.*

25.5 At the end of the investigation, the Investigating Officer filed chargesheet in the Court of the Chief Judicial Magistrate which culminated in the Criminal Case No. 1015 of 2008. The appellant herein and the other co-accused were put to trial and vide the judgment and order dated 13-1-2016 passed by the Chief Judicial Magistrate District Sant Kabir Nagar came to be acquitted.

25.6 At the time when the services of the appellant came to be terminated, he was a probationer.”

(Emphasis supplied)

22. Thus, both the aforesaid cases pertained to instances in which



the concerned employee was, at the time of filling in the application form, aware of the fact that criminal proceedings were pending against him, and willfully misstated and concealed the said fact while applying for the post.

23. These judgments cannot, therefore, apply in the facts of the present case.

24. The Tribunal has placed reliance on the judgment of the Supreme Court in **Avtar Singh** (*supra*) and has specifically extracted the principles culled out by the Supreme Court in cases such as this, from para 38 of the decision, thus, in para 16:

16. The issue in hand is no more *res integra* in view of the law laid down by the Hon'ble Apex Court in **Avtar Singh** (*supra*), para 38 of which reads as under:-

“38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of the aforesaid discussion, we summarise our conclusion thus:

38.1. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

38.2. While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.

38.3. The employer shall take into consideration the government orders/ instructions/rules, applicable to the employee, at the time of taking the decision.

38.4. In case there is suppression or false information of involvement in a criminal case where conviction or



acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourses appropriate to the case may be adopted:

38.4.1. In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.

38.4.2. Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

38.4.3. If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

38.6. In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion, may appoint the candidate subject to decision of such case.

38.7. In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.

38.8. If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

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departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

38.10. For determining suppression or false information attestation/ verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

38.11. Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him."

(Emphasis supplied)

25. Thus, the Supreme Court has clearly held, where the cancellation of candidature or termination of the service of the employee is on the ground that there was a misstatement or suppression at the time of application for employment, of the fact that there was a criminal case pending against him, it would be necessary for the establishment to also prove that the employee had knowledge of the pendency of the criminal case.

26. It is a simple truism that one cannot suppress something which is not within one's knowledge. No man is omniscient.

27. The Tribunal was, therefore, correct in its view that the allegation, on the basis of which the respondent was terminated, which was that she had consciously suppressed the fact that a criminal case



was pending against her, could not sustain.

28. Notably, this is not a case in which the respondent was terminated from service on the ground that, *as there was a criminal case pending against her*, she was not suitable for employment in the Delhi Police. The termination order was founded solely on the fact that *she had suppressed the fact that there was a criminal case pending against her*.

29. From the time of ***Commissioner of Police v Gordhandas Bhanji***⁹, the law is that an order has to stand or fall on the basis of what is contained therein and cannot be sought to be improved by arguments made in Court or even by an affidavit. ***Mohinder Singh Gill v The Chief Election Commissioner***¹⁰, while relying on ***Gordhandas Bhanji***, held, classically, thus:

“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in ***Gordhandas Bhanji***:

“Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be

⁹ AIR 1952 SC 16

¹⁰ (1978) 1 SCC 405



construed objectively with reference to the language used in the order itself.”

Orders are not like old wine becoming better as they grow older.”

30. We are not called upon, therefore, to examine any aspect of the matter except whether the respondent could have been terminated on the ground that she had suppressed the pendency of the criminal case against her.

31. We find ourselves entirely in agreement with the Tribunal that there was no material to indicate that the respondent was aware of the registration, against her, of FIR 39/2016. Though Mr. Haseeb sought to rely on the daily diary maintained at the concerned Police Station, even with respect to the said daily diary, the Tribunal has noted thus:

“11. Learned counsel for the applicant has further argued that only for the reason that in the case diary the concerned Inquiry Officer has recorded that he has inquired from the applicant about her involvement in the said case FIR is of no consequence. He submits that even the case diary does not indicate that any notice and/or summon was ever issued or served upon the applicant and/or the applicant was informed about her such involvement. He has further argued that in light of the decision of the Hon’ble High Court of Guwahati in the case of *State of Assam and Ors. v Niranjana Ghosh* (*supra*), the case diary cannot have the value of evidence in a trial.”

32. Thus, even the daily diary maintained by the police did not indicate that the respondent was ever informed of the fact that she was involved in an FIR.

33. The Tribunal has held that a mere comment, by the Inquiry Officer that he inquired from the respondent about her involvement in



an FIR, does not amount to knowledge, on her part, of the institution of an FIR against her.

34. We find no reason to differ with the said decision.

35. We are mindful of the fact that we are exercising *certiorari* jurisdiction under Article 226 of the Constitution, which must subscribe to the discipline of the following paragraphs from the judgment of Supreme Court in *Syed Yakoob v K.S. Radha Krishnan*¹¹:

“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 in properly, 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 finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown 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*

¹¹ AIR 1964 SC 477



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.

8. It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. *What can be corrected by a writ has to be an error of law; it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record. It may also be that in some cases; the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record. If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconducted or contravened."*

(Emphasis supplied)



36. The Supreme Court, while rendering its judgement in *L. Chandrakumar v UOI*¹², we are sanguine, never intended the High Court to be a forum for appeal against the decision of the Tribunal. What was intended, we feel, was to provide for a preliminary stage of judicial review by High Courts, of decisions of the Tribunal, before the matter travelled further upwards – if at all it did.

37. In exercise of our jurisdiction under Article 226 of the Constitution of India, we are of the opinion that no case is made out for interference with the impugned judgment, which is upheld in its entirety.

38. The writ petition is, therefore, dismissed in *limine*.

C.HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 31, 2025/sk

[Click here to check corrigendum, if any](#)

¹² (1997) 3 SCC 261