

(2004) 06 BOM CK 0014

In the Bombay High Court

Case No : (O.S.) W.P. (L) No. 2894 of 2003 (sic)

Air India Limited

APPELLANT

Vs

Sashikala Jarav (Ms.) and Another

RESPONDENT

Date of Decision : 25-06-2004

Acts Referred:

Industrial Employment (Standing Orders) Act, 1946 — Section 2(9)
Model Standing Orders — Order 14, Order 14(6)
Air Corporations Act, 1953 — Section 40, 7(2)(1)
Constitution of India, 1950 — Article 14, 226
Industrial Disputes Act, 1947 — Section 10, 33(2)

Citation : (2005) 105 FLR 1106 : (2005) 2 LLJ 14

Hon'ble Judges : D.Y. Chandrachud, J

Bench : Single Bench

Advocate : Sudhir Talsania and J.S. Saluja, instructed by M.V. Kini and Co, for the Appellant; M.B. Singh, for the Respondent

Final Decision : Dismissed

Judgement

D.Y. Chandrachud, J.—These proceedings under Article 226 of the Constitution arise out of an award of the Central Government Industrial Tribunal at Mumbai on a reference to adjudication u/s 10 of the Industrial Disputes Act, 1947. The Industrial Court has arrived at the conclusion that the order of termination that was passed against the First Respondent stands vitiated. The First Respondent who was at the material time an Air Hostess in Air India has been directed to be reinstated without back wages. The First Respondent was employed as a Trainee Air Hostess with Air India on February 17, 1983. She was granted leave for a period of 31 days between June 1, 1988 to July 1, 1988 and was permitted to leave station in order to enable her to join her husband who was then posted at Muscat. On the request of the First Respondent, the period of leave was extended until August 15, 1988 on medical grounds. With effect from September 2, 1988, the First Respondent was sanctioned maternity leave and by a communication dated September 22, 1988 she was permitted to proceed abroad

during the period of her leave. On April 25, 1989, the First Respondent gave birth to a child at Muscat. On May 26, 1989 the First Respondent sought an extension of the period of leave and by a letter dated August 2, 1989 her leave came to be extended until October 24, 1989. On October 24, 1989 the Petitioner sought a further extension of leave by a period of six months, which was declined by the authorities on November 29, 1989. The First Respondent by a letter dated December 2, 1989 sought leave without pay in view of the difficulties which she was facing in relation to her young child. This request was turned down on December 12, 1989. The First Respondent once again made a representation together with a Paediatrician's certificate on December 27, 1989 seeking leave without pay for a period of three months. This came to be declined on January 12, 1990. By her letter dated February 14, 1990 the First Respondent recorded that she was suffering from a thyroid problem and set out the difficulties which she was then facing in feeding her infant child. The First Respondent stated that she was sincere in her desire to continue with her job but, in view of her difficulties, sought unpaid leave of four months. By a communication dated March 9, 1990 the authorities required the First Respondent to forward to them photocopies of her prescriptions, medical investigation and cash memos reflecting the purchase of medicines. The First Respondent furnished copies of the medical investigation and prescriptions by a letter dated March 14, 1990 stating that in so far as the cash memos were concerned, she was undergoing free medical treatment at the Police Hospital at Muscat in the Sultanate of Oman. On April 25, 1990, the authorities called upon the First Respondent who was in Oman to report to the Medical Officer at Mumbai to which the First Respondent responded on May 10, 1990 stating that she had sought leave without pay and not medical leave in which case there was no reason to ask her to report to the Medical Officer.

2. By a letter dated October 1, 1990 the First Respondent was finally called upon to report for duty by October 10, 1990, failing which it was stated that disciplinary action would be taken against her. According to the First Respondent, this letter was received by her on October 13, 1990 at Oman. Even before the letter could be received, on October 12, 1990 a charge- sheet came to be issued to the First Respondent for holding a disciplinary inquiry on the ground that the First Respondent had wilfully absented herself on the expiry of her leave. On October 25, 1990, the First Respondent once again sought a sympathetic reconsideration of her case in view of the circumstances in which she and her infant were placed. The authorities in a letter dated November 7, 1990 stated that while they were concerned about the condition of the child, there was no reason why the First Respondent should not seek medical assistance for herself and her child in Mumbai and she was directed to report to the Deputy Director of Medical Services in Mumbai. On November 11, 1990 the First Respondent informed the Deputy Director, Inflight Services Department that she was in a stage of early pregnancy again; that she was suffering from premature bleeding and that her Gynaecologist had diagnosed it as a case of threatened abortion

advising her three months" rest. The correspondence with the authorities continued with the First Respondent informing the authorities on January 20, 1991 that she was unable to report for work in view of her medical condition. The inquiry which was convened against the First Respondent thereupon proceeded in the absence in the First Respondent. By an order dated November 12, 1992 the Deputy Director of Inflight Services came to the conclusion that the finding of misconduct against the First Respondent stood proved and that he concurred with the findings of the Inquiry Officer. The First Respondent was accordingly dismissed from service with effect from the date of communication of the order.

3. The Petitioner thereupon sought the approval of the Industrial Tribunal to the termination of the services of the First Respondent u/s 33(2)(b) of the Industrial Disputes Act, 1947. The Presiding Officer of the Tribunal passed an order of approval on May 13, 1994. Thereupon there was a reference to adjudication u/s 10 of the Industrial Disputes Act, 1947 which has culminated in the impugned award of the Industrial Tribunal dated August 28, 2003.

4. The Presiding Officer of the Central Government Industrial Tribunal has arrived at the conclusion that the order of termination was vitiated on the ground that it has not been passed by an authority duly notified in a notification dated November 17, 1990 issued by Air India in pursuance of the provisions of the Industrial Employment (Standing Orders) Act, 1946. The notification dated November 17, 1990 lays down a list of authorities empowered to take disciplinary action arising out of orders passed in respect of each of the departments of Air India. The notification recites that it has been issued under the Central Model Standing Orders and covers such employees to whom the definition of expression "workman" under the Industrial Employment (Standing Orders) Act, 1946 applies. In so far as the Inflight Services Department is concerned, it has been provided in the notification that in respect of any workman not above the grade of Senior Check Air Hostess or its equivalent the authority empowered to impose the punishment which is prescribed will be (i) Manager - Cabin Crew, Chief Air Hostess or the equivalent or (ii) Station Manager or equivalent. The aforesaid notification then specifies that an appeal against any order imposing punishment on the category of employees will lie to the Senior Station Manager, Senior Manager Cabin Crew or the equivalent. Under Model Standing Order 14(6)(a) a workman aggrieved by an order imposing punishment in a departmental inquiry is given the right of an appeal to an appellate authority which has to be specified by the employer. The Presiding Officer of the Central Government Industrial Tribunal held that the Deputy Director, Inflight Services Department was not a notified authority and that therefore he was not competent to pass an order of termination. Furthermore it has been held that as a result of the order that was passed by the Deputy Director, Inflight Services, the First Respondent has lost the right of a substantive appeal which was otherwise required to be made available in pursuance of the Model Standing Orders. In these circumstances, it was held that the order of termination is vitiated. The Presiding Officer has come to the conclusion that an order of

reinstatement, though without back wages would meet the ends of justice in the facts of the case.

5. Counsel appearing on behalf of the Petitioner has submitted that the Industrial Tribunal erred in coming to the conclusion that the Deputy Director, Inflight Services was not competent to pass an order of termination. It was urged that the Deputy Director is the Head of the Inflight Services Department and that in pursuance of a delegation of powers which has been made in pursuance of the provisions of Section 40 of the Air Corporations Act, 1953 he was entitled, as a departmental head, to exercise any or all the powers given to an officer subordinate to him. On these grounds it was urged that the view which has been taken by the Industrial Tribunal warrants interference, since it was open to the Head of the Department to exercise the power of termination which was otherwise conferred upon his subordinate.

6. A charge-sheet was issued to the First Respondent on October 12, 1990. The charge-sheet was issued by the Deputy Director, Inflight Services in pursuance of the Air India Employees' Service Regulations, 1947. The Deputy Director, Inflight Services was under those service regulations competent to impose all punishments on an employee not above the grade of Station Superintendent/Chief Air Hostess or equivalent. A controversy arose on the question as to whether Air India was entitled to proceed under its service regulations which were issued in 1947, in respect of employees who belonged to the category of workmen or whether in respect of] such employees, the Industrial Employment (Standing Orders) Act, 1946 and the Model Standing Order thereunder would apply. This issue came up for adjudication before the Delhi High Court in Air India Vs. Union of India and Others, . Mr. Justice B.N. KRIPAL(as the learned Chief Justice then was) speaking for a Division Bench of the Delhi High Court held that Air India was not vested with the statutory power to frame regulations to govern those of its employees who belong to the category of workmen and that its workmen would be governed by the provisions of the Industrial Employment (Standing Orders) Act, 1946. In 1994 Air India was converted into a public limited company. As a public limited company it ceased to be governed by the provisions of the Air Corporations Act, 1953. In Air India Vs. Union of India and others, , in appeal against the judgment of the Delhi High Court, the Supreme Court held that in view of the Air Corporations (Transfer of Undertakings & Repeal) Act, 1994 the Regulations ceased to be effective on January 29, 1994 and the foundation of Air India's case no longer exists. The appeal was accordingly dismissed. Be that as it may, insofar this case is concerned, the order of the Industrial Tribunal in any event records the concession of Air India that the regulations which were framed under the Air Corporations Act, 1953 were not applicable. The same concession has been repeated before this Court by counsel appearing on behalf of Air India. Therefore, the case proceeds on the basis that the validity of the action of the management would have to be tested with reference to compliance with the provisions of the Industrial Employment (Standing Orders) Act, 1946 and the Model Standing Orders.

7. A perusal of the pleadings of the parties and of the position of the management in the proceedings before the Industrial Court is necessary. This is necessary because the jurisdiction of the Court under Article 226 has been invoked for seeking the issuance of a Writ of Certiorari. The Court would, therefore, have to consider whether on the material which was produced on the record of the Industrial Tribunal and the evidence which was led, the conclusion which has been arrived at by the Tribunal warrants interference. In the statement of claim which was filed before the Industrial Tribunal, the First Respondent challenged the order of termination on several grounds. Insofar as the subject of this petition is concerned, the relevant averment is thus:

"The person who issued the order of termination is not empowered to issue such an order under the Model Standing Orders. He was never appointed the Manager of the establishment nor has his name/designation been notified as required to be done under the law - Industrial Employment (Standing Orders) Act, 1946."

To this averment there was the following reply by the management:

"It is also denied that the person who issued the order of termination is not empowered to issue such an order."

Though there was a denial of the averment that the person who had issued the order of termination was not empowered under the Model Standing Orders, the fact that the person who issued the order of termination was not appointed as a Manager of the establishment nor had his name been designated or notified as required under the 1946 Act was not traversed or disputed. In the course of her evidence, the First Respondent stated in her examination-in-chief that the order of dismissal had been issued by the Deputy Director, Inflight Services who was not designated as the Manager. She then stated that under the Model Standing Orders, it was mandatory to provide for an appellate authority. According to the First Respondent, the order of dismissal was required to indicate to whom an appeal should be addressed and the order of dismissal does not comply with these mandatory requirements of law. The cross examination of the First Respondent which has been placed on the record demonstrates that there was virtually no challenge to the aforesaid statement that was made in the course of the examination-in-chief that was filed in the form of an affidavit before the Industrial Tribunal. This may assume some significance in the facts of the present case because the sole basis that was placed before the Industrial Tribunal by the management for sustaining the exercise of the power of termination was the circular dated November 17, 1990. (The document was placed on the record by the management under a purshis dated July 10, 2003.) The Presiding Officer noted that though there was effectively no traverse of the contention of the First Respondent that the order of termination had been passed by an authority which was not empowered to do so, the Tribunal permitted counsel for the management to place on record the circular dated November 17, 1990. When the Petition was filed before this Court, no instrument of delegation to the Deputy Director, Inflight Services was produced. The only ground which was urged in the

Petition was that at the relevant time the Deputy Director was heading the Department of Inflight Services and he was competent to pass an order of dismissal.

8. The First Respondent filed her reply dated January 7, 2004 to the writ petition and it was on January 9, 2004 for the first time that the management sought to rely upon an instrument of delegation issued under the provisions of Section 40 read with Section 7(2)(1) of the Air Corporations Act, 1953 which was repealed in 1994. The Petitioner, contended that for the efficient conduct of its business and day to day affairs, certain powers and authorities have been delegated in an instrument of delegation dated January 1, 1987. The First Respondent has objected to reliance being placed on the alleged instrument of delegation contending that (i) there is no explanation in the affidavit as to why the document was not tendered before the Industrial Tribunal; (ii) the document was not even a part of the writ petition as it was originally filed; (iii) that it was produced only after she had filed her affidavit in reply to the proceedings; (iv) the instrument of delegation was not in force at the time when her services were terminated in January 1993; (v) the instrument was made at a time when Air India had its own service regulations; however, the judgment of the Delhi High Court had specifically spelt out that regulations could not be framed by Air India under the Air Corporations Act with respect to the service conditions of employees falling in the workman category.

9. Section 2(9) of the Industrial Employment (Standing Orders) Act, 1946 defines standing orders as rules relating to matters which are set out in the Schedule. Among the matters which are required to be provided in the standing orders is termination of employment, suspension or dismissal for misconduct, acts and omissions which constitute misconduct and means of redressal for workmen against unfair treatment. Model Standing Order 14 which has been framed in pursuance of the Industrial Employment (Standing Orders) (Central) Rules, 1946 deals with disciplinary action for misconduct. Model Standing Order 14(6) is in the following terms:

"(a) A workman aggrieved by an order imposing punishment may within twenty-one days from the date of receipt of the order, appeal to the appellate authority.

(b) The employer shall, for the purposes of Clause (a) specify the appellate authority.

(c) The appellate authority, after giving an opportunity to the workman of being heard, shall pass such order as he thinks proper on the appeal within fifteen days of its receipt and communicate the same to the workman in writing."

10. Model Standing Orders constitute statutorily a part of the terms and conditions of service of workmen. Model Standing Order 14(6) envisages a substantive right of appeal to a workman aggrieved by an order imposing punishment in the course of a disciplinary inquiry. The employer is under a mandate and an obligation to specify the appellate authority and it is then

provided that the appellate authority shall decide upon an appeal that may be preferred by a workman after furnishing to the workman an opportunity of being heard. In pursuance of the mandate of Model Standing Order 14(6)(a) Air India has in its administrative circular dated November 17, 1990 specified the names of authorities who are empowered to take disciplinary action and to hear appeals arising out of orders passed thereon. In so far as Air Hostesses are concerned, the authority empowered to take disciplinary action is the Manager Cabin Crew or Chief Air Hostess or the equivalent or the Station Manager or equivalent. An appeal has been provided to the Senior Station Manager or, as the case may be, the Senior Manager Cabin Crew or her equivalent.

11. Counsel appearing on behalf of the Petitioner has urged that when the power to take disciplinary action is vested in an authority that power can be exercised by a higher authority to whom the disciplinary authority is subordinate. For the purposes of deciding this case, the Court can proceed on the premise that as a matter of first principle the jurisdiction which is vested in a disciplinary authority can be exercised by a higher authority. As a general principle of service jurisprudence this is correct. The important point to note in a case such as the present is that the power which is exercised is one in pursuance of the provisions of the Industrial Employment (Standing Orders) Act, 1946 which spells out the manner in which the power has to be exercised. The Industrial Tribunal was of the view that when power is conferred to be exercised in a particular manner, it has to be exercised in that manner alone. But to my mind, there is an even more fundamental issue which needs to be highlighted. The Model Standing Order specifically mandates that the employer must spell out and specify the name of the appellate authority. That is in fact what has been done by the circular dated November 17, 1990. The passing of the order of dismissal by the Deputy Director, Inflight Services effectively deprives the workman of the right of an appeal that has been conferred upon the senior Station Manager or the senior Manager Cabin Crew. (The senior Station Manager and the senior Manager Cabin Crew as the notified appellate authorities are lower in rank). The admitted position is that no appellate authority has been designated if the power of dismissal were to be exercised by the Deputy Director, Inflight Services. Counsel appearing on behalf of the Petitioner submits that it was not necessary to make such a designation of an appellate authority and an appellate authority would be provided if an appeal is filed. Even during the course of the submissions before the Court the Petitioner is unable to spell out who the appellate authority would be against a decision of the Deputy Director, Inflight Services.

12. The infirmity in the disciplinary proceedings in the present case is not a mere technicality but is a matter of substance upon which the Supreme Court has laid a considerable degree of emphasis in reported decisions. In *Surjit Ghosh Vs. Chairman and Managing Director, United Commercial Bank, and others*, disciplinary proceedings were pursued against an Assistant Manager by the Deputy General Manager of the Bank. Under the service regulations, the disciplinary authority was the Divisional Manager/AGM Personnel and the appeal

lay before the Deputy General Manager or any other officer of the same rank. The disciplinary jurisdiction had, therefore, been exercised by the authority which had been notified as the appellate authority. The Supreme Court held that the order of dismissal suffered from the inherent defect since the result thereof was a denial (sic) to the employee the right of an appeal and the right of a review which lay only against the appellate order. Before the Supreme Court it was urged that no prejudice was caused to the employee because the Deputy General Manager was higher in rank than the disciplinary authority and that it should be held that when an order of punishment is passed by a higher authority, no appeal is available under the regulations. The Supreme Court held that the fallacy in the argument was that it tried to place rules and regulations which provide no appeal on par with those which provide the right of an appeal. In that context, the Supreme Court held thus 1995-II-LLJ-68 at p. 70:

"6.....It is true that when an authority higher than the disciplinary authority itself imposes the punishment, the order of punishment suffers from no illegality when no appeal is provided to such authority. However, when an appeal is provided to the higher authority concerned against the order of the disciplinary authority or of a lower authority and the higher authority passes an order of punishment, the employee concerned is deprived of the remedy of appeal which is a substantive right given to him by the Rules/Regulations. An employee cannot be deprived of his substantive right. What is further, when there is a provision of appeal against the order of the disciplinary authority and when the appellate or the higher authority against whose order there is no appeal, exercises the powers of the disciplinary authority in a given case, it results in discrimination against the employee concerned. This is particularly so when there are no guidelines in the Rules/Regulations as to when the higher authority or the appellate authority should exercise the powers of the disciplinary authority. The higher or appellate authority may choose to exercise the power of the disciplinary authority in some cases while not doing so in other cases. In such cases, the right of the employee depends upon the choice of the higher/appellate authority which patently results in discrimination between an employee and employee. Surely, such a situation cannot savour of legality. Hence we are of the view that the contention advanced on behalf of the respondent-Bank that when an appellate authority chooses to exercise the power of disciplinary authority, it should be held that there is no right of appeal provided under the Regulations cannot be accepted."

13. This decision of the Supreme Court was adverted to in a subsequent decision in *Balbir Chand Vs. Food Corporation of India Ltd. and others*, . That was a case where a joint inquiry was conducted against several delinquent officials, and the highest in the hierarchy of the competent authorities who could take disciplinary action against them was the Managing Director of the Corporation. The Supreme Court said that this officer being the appellate authority should not in normal circumstances pass an order of punishment so as to enable the delinquent employee to avail of a right of appeal. An authority lower than the appointing

authority, it was held, cannot take disciplinary action. But there is (sic) probation in law that a higher authority should not take a decision or impose a penalty as the primary authority in a matter of disciplinary action. The Court held that it could not, however, be laid down as a rule of law that in all circumstances the higher authority should consider and decide the case imposing the penalty as a primary authority under the rules. However, in the case in hand a right of second appeal/revision was provided to the Board on an appeal had in fact been preferred to the Board. In the circumstances, it was held that there was no violation of Article 14. The judgment in Surjit Ghosh's case (supra) was explained with the following observations:

"In the judgment relied on by the counsel, it would appear that in the Rules, officer lower in hierarchy was the disciplinary authority but the appellate authority had passed the order removing the officer from service. Thereby, appellate remedy provided under the Rules was denied. In those circumstances, this Court opined that it caused prejudice to the delinquent as he would have otherwise availed of the appellate remedy and his right to consider his case by an appellate authority on question of fact was not available."

14. Balbir Chandel's case (supra) was, therefore, one where an order was passed by the Managing Director of the Corporation because he was the highest officer in the hierarchy of competent authorities who could take disciplinary action against several officials who had been proceeded with in a departmental proceeding. The Supreme Court emphasised that in normal circumstances, there was no reason for him to exercise the power of a disciplinary authority nor could it be laid down as a general rule in all circumstances that a higher authority should exercise disciplinary jurisdiction as a primary authority under the rules. The decision in Surjit Ghosh's case (supra) well as the subsequent decision in Balbir Chandel's (supra) case emphasise the serious prejudice that is liable to be caused to a workman who is deprived of a right of appeal arising out of the exercise of the disciplinary jurisdiction by an authority higher than that to whom disciplinary powers are conferred. In the present case, the Deputy Director, Inflight Services was much higher in the hierarchy of officials than the appellate authority to whom the appeal was designated to lie under Model Standing Order 14(6)(a). If the Deputy Director were to exercise the disciplinary jurisdiction then admittedly the right of appeal to the listed authorities would lose all meaning and significance.

15. Counsel appearing on behalf of the Petitioner has sought to rely upon an earlier judgment of two Learned Judges of the Supreme Court in *Awadesh Kumar Bhatnagar Vs. The Gwalior Rayon Silk Mfg. Weaving Ltd. and Another*, . In that case the relevant standing order defined a "Manager" to mean a person nominated as manager under the-Factories Act, 1948 or a person whom an undertaking shall nominate as Manager for the purposes of standing orders and to include a person authorised by him. In that case the inquiry was held by" a person who was duly authorised by the manager. The standing orders prescribed

that an order of punishment shall be issued by the manager or by his duly authorized officer. The Supreme Court held that as a matter of fact, the order of dismissal had been signed both by a duly authorised person as well as by the Secretary of the mills who had the power to appoint and dismiss an employee of the company. That being the position, the Court held that the order had been passed by a, competent authority. Hence, it was in that context that the Supreme Court held that the order was duly signed by someone who had been authorized as well as by his superior who was the appointing and dismissing authority. The Court held that when an authority higher than the Manager had passed an order of discharge it would not be held to be invalid and a reasonable interpretation of the standing orders was that an authority lower in rank to that of a Manager or other officer authorized could not pass an order of punishment. Besides the aforesaid factual distinction, the issue which arises in the present case viz., the provision of a right of appeal did not fall for consideration before the Supreme Court in the decision in Awdesh Kumar's case having regard to the standing orders which were then interpreted. That issue has been squarely considered in Surjit Ghosh's case (supra) in which the Supreme Court has made a distinction between those categories of cases where rules and regulations do not provide for an appeal and those where the rules specifically lay down a right of an appeal. Where rules such as the Model Standing Orders in the present case lay down a right of appeal that is a substantive right which must be made available in the manner prescribed. A deviation therefrom cannot lightly be presumed or justified. In any event, in the present case, there are no reasons forthcoming as to why, in the facts of this case, the designated disciplinary authority was disabled from passing an order in the exercise of its disciplinary jurisdiction. NO exceptional circumstances of the kind that were adverted to by the Supreme Court in Balbir Chand's case (supra) have been set up in the pleadings or evidence before the Industrial Tribunal. Now, it would be necessary to deal with the purported delegation of authority that has been sought to be relied upon by the Petitioner. It is necessary to emphasise that the instrument of delegation which is produced before this Court in the form of an additional affidavit dated January 9, 2004 has not been produced before the Industrial Tribunal. The only instrument that was relied upon by the management was that of November 17, 1990 which has been already referred to earlier. There is absolutely no explanation as to why the delegation which is now sought to be relied upon was not produced or relied upon before the Industrial Tribunal. In fact, even the aforesaid instrument is in two parts, the first containing the delegation of financial powers and the second, a delegation of administrative powers. The latter refers to the creation of posts, appointments and promotions, officiating appointments, fixation of pay, revision of emoluments, grant of leave, transfers, free passages and legal matters. The instrument is conspicuously silent with regard to the disciplinary jurisdiction. The view which I have taken in regard to the non-production of the instrument of delegation before the Tribunal finds support in a judgment of three learned Judges of the Supreme Court in Hindustan Brown Boveri Ltd. v. Their workmen 1967 1 LLJ 571. In that case a

delegation of authority for the purpose of exercising the disciplinary jurisdiction was sought to be relied upon for the first time before the Supreme Court. The Labour Court was not informed about the existence of the power of attorney and even in its SLP the management failed to urge that there existed such delegation of authority. The Supreme Court held that there was no manner of doubt that the management was negligent in not producing the document and therefore, that was not a case where the company could not produce additional evidence or was prevented from doing so earlier. The Court held that in the absence of such evidence the company had failed to establish delegation of power.

16. The Court must have due regard in this case of the parameters of the jurisdiction which it exercises under Article 226 of the Constitution. The Court has been called upon to issue a Writ of Certiorari for setting aside the judgment of the Industrial Tribunal. In considering the correctness of the view that has been taken by the Industrial Tribunal, this Court must primarily be guided by the nature of the material that was produced before the Tribunal by the parties in order to sustain their claims and defences. The jurisdiction which the Court exercises in a case such as the present is essentially a supervisory jurisdiction. The principles which must guide the exercise of this jurisdiction have been spelt out in the judgment of the Supreme Court in *Syed Yakoob Vs. K.S. Radhakrishnan and Others*, . The Industrial Tribunal has formed a view of the matter which is clearly sustainable with reference to the material which was on the record before it. Even otherwise I have come to the conclusion that the view of the Industrial Tribunal does not suffer from any error or perversity so as to warrant interference in the Jurisdiction under Article 226. The Industrial Court has granted reinstatement to the First Respondent, but has denied back wages having regard to all the circumstances of the case. A just outcome does not warrant interference in a jurisdiction which is in aid of justice. The petition shall in the circumstances stand dismissed.