
(2003) 09 RAJ CK 0043
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3586 of 2003

Buta Singh

APPELLANT

Vs

Superintending Eng. Survey Circle, IGNP (CAD) and Others

RESPONDENT

Date of Decision : 03-09-2003

Acts Referred:

Payment of Wages Act, 1936 — Section 15

Citation : (2004) 101 FLR 1192 : (2004) 2 LLJ 187 : (2004) 1 RLW 496 : (2004) 1 WLC 718

Hon'ble Judges : H.R. Panwar, J

Bench : Single Bench

Advocate : H.S. Sidhu, for the Appellant;

Final Decision : Dismissed

Judgement

Panwar, J.—The instant writ petition under Article 227 of the Constitution of India has been filed seeking relief to quash the order Annx. P/2 dated 8-4-2003 passed by the Appellate Authority under the Payment of Wages Act, 1936.

2. The facts and circumstance giving rise to this writ petition are that petitioner, a Junior Engineer, reported on duty on 10-3-1986 and the joining report was signed by the concerned authority. He remained present in the office from 10-3-1986 to 31-7-1986 but the salary for the said period had not been paid to him. He filed a claim petition u/s 15 of the Payment of Wages Act, 1936 (for short, "the Act") and the learned Payment of Wages Authority (for short, "the Authority"), vide order dated 15-1-2002 (Annx. 1), allowed the claim petition and directed the respondent No. 1 to pay Rs. 6490/- as salary to the petitioner. The respondent State went in appeal and the Appellate Authority (District Judge, Bikaner), vide impugned Order dated 8- 4-2003, allowed the appeal and set-aside the order Annx. 1 dated 15-1-2002 passed by the learned Authority. Hence this writ petition.

3. I have heard learned counsel for the petitioner and gone through the record.

4. It is clear from the record that during the period from 10-3-86 to 25-7-86, petitioner did not perform any official duties. The petitioner has admitted in his statement Annx. P. 3 that all the entries in Ex. W. 1 to W. 3 in the attendance register were made on a single day. Petitioner further admitted that he had not worked during the period, for which he had laid the claim. He has stated that since he remained present in the office during the aforesaid period and as such he had made all these entries in the attendance register on a single day. A complaint regarding making all the entries in the attendance register on a single day was lodged on 31-10-86. It is note-worthy that the entries in the attendance register were made even for the gazetted holidays and, thus, petitioner had made the forged entries in the attendance register. Moreso, the departmental witness Kailash Chandra Joshi, in his statement, has categorically stated that the petitioner remained absent from 10-3-86 to 25-7-86 and he reported on duty only on 26-7-86; despite the fact that petitioner remained absent from duty from 10-3-86 to 25-7-86, he had written his name in the attendance register fraudulently and marked the attendance on a single day for whole of the period. Moreso, vide order dated 10-9-85, petitioner was transferred to Chhatargarh and he submitted the joining report on 10-3-86. A perusal of the joining report submitted on 10-3-86 clearly suggests that from 10-9-85 to 10-3-86, he did not report on duty. The stand taken by the petitioner in his claim and affidavit is contrary to the statement made by him during the cross-examination. All these facts lead to the conclusion that the petitioner is not entitled for any payment towards salary for the aforesaid period. The learned appellate court was justified in setting-aside the order Annx. 1 passed by the learned Authority.

5. This Court has very limited scope under Article 227 of the Constitution as per the law laid down in Mohd. Yunus v. Mohd. Mustaqim and Ors. (1), wherein it has been held that even the errors of law cannot be corrected in exercise of power of judicial review under Article 227 of the Constitution and the power can be used sparingly when it comes to the conclusion that the Authority/Tribunal has exceeded its Jurisdiction or proceeded under erroneous presumption of jurisdiction. The High Court cannot assume unlimited prerogative to correct all species of hardship or wrong decision. For interference, there must be a case of flagrant abuse of fundamental principles of law or where order of the Tribunal etc. has resulted in grave injustice.

6. The Apex Court in Nibaran Chandran Bag v. Mahendra Nath Ghughu (2), held that the jurisdiction conferred by Article 227 of the Constitution of India is not by any means appellate in its nature for correcting errors in the decisions of Subordinate Courts or Tribunals but is merely a power of superintendence to be used to keep them within the bounds of their authority.

7. It is well settled that power under Article 227 is of the judicial superintendence which cannot be used to up-set conclusions of facts, howsoever erroneous those may be, unless such conclusions are so perverse or so unreasonable that no Court could ever have reached them. In Savita Chemical (P) Ltd. v. Dyes &

Chemical Workers" Union and Anr. (3), the Hon"ble Supreme Court held that unless the findings are patently erroneous and dehors the factual and legal position on record, exercising the power under Article 227 of the Constitution may not be justified and in that eventuality disturbing the findings of facts would amount to jurisdictional error.

8. In Ajaib Singh v. Sirhind Co-operative Marketing cum Processing Service Society Ltd. (4), the Hon"ble Apex Court has held that there is no justification for the High Court to substitute its view for the opinion of the Authorities/Courts below as the same is not permissible in proceedings under Articles 226/227 of the Constitution.

9. In Mohan Amba Prasad Agnihotri v. Bhaskar Balwant Aheer (5), the Hon"ble Supreme Court held that jurisdiction of the High Court under Article 227 of the Constitution is not appellate but supervisory and, therefore, it cannot interfere with the findings of fact recorded by the Courts below unless there is no evident to support the findings or the findings are totally perverse. Similarly, in Union of India v. Rajendra Prabhu (6), the Hon"ble Apex Court held that the High Court, in exercise of its extraordinary powers under Article 227 of the Constitution, cannot re-appreciate the evidence nor it can substitute its subjective opinion in place of the findings of Authorities below.

10. In view of the above settled proposition of law, no case for interference is made out.

11. Consequently, the writ petition lacks merit and it is accordingly dismissed summarily. There shall be no order as to costs.