

(2016) 08 SHI CK 0031
In the High Court Of Himachal Pradesh
Case No : LPA No. 186 of 2015

M/s. Winsome Textile Industries Limited	APPELLANT
Vs	
State of Himachal Pradesh	RESPONDENT

Date of Decision : 31-08-2016

Acts Referred:

Citation : (2016) LatestHLJ(HP) 1182

Hon'ble Judges : Mr. Mansoor Ahmad Mir, CJ. and Mr. Sandeep Sharma, J.

Bench : Division Bench

Advocate : Mr. Anup Rattan, Mr. Romesh Verma, Mr. Varun Chandel, Additional Advocate Generals with Mr. Kush Sharma, Deputy Advocate General, for the Respondent No. 1; Mr. T.S. Chauhan, Advocate, for the Respondent No. 2; Mr. Rahul Mahajan, Advocate, for the Appellan

Final Decision : Dismissed

Judgement

Mansoor Ahmad Mir, C.J.(Oral) - This Letters Patent Appeal is directed against the judgment and order dated 14.07.2015, passed by the learned Single Judge in CWP No. 7138 of 2014, titled as M/s. Winsome Textile Industries Limited v. State of State of Himachal Pradesh & another, whereby the writ petition came to be dismissed and the award passed by the Labour Court-cum-Industrial Tribunal, Shimla, for short "the Labour Court", came to be upheld, for short "the impugned judgment".

2. We have gone through the impugned judgment. The Writ Court, after scanning the pleadings and the award made by the Labour Court, held that the writ petitioner-appellant had no case. The impugned judgment is legally correct for the following reasons.

3. The dispute was raised by respondent No. 2- petitioner before the Labour Court under the Industrial Disputes Act, 1947, (for short "the Act) before the concerned Authority, which culminated into Reference No. 102 of 2009 before the Labour Court, whereby a demand to the tune of Rs. 84,795/- from the period

1.4.2003 to December, 2007 and thereafter about Rs. 1,35,000/- till filing of the claim, was raised.

4. The parties were directed to file their pleadings. Issues were framed by the Labour Court, which find place in para-4 of the award passed by the Labour Court. Parties led their evidence and the Labour Court after examining the pleadings and the evidence led by the parties, partly allowed the claim of the petitioner. It is apt to reproduce the operative part of the award herein:

"As a sequel to my findings on the aforesaid issues, the claim of the petitioner is partly allowed and as such the respondent is directed to pay the annual increments @ Rs. 400/- w.e.f. 1.4.2003 to December, 2007, which was paid to him in the year, 2001 by deducting the amount of increments which were already paid to him w.e.f. 1.4.2003 to December, 2007. The reference is answered accordingly in favour of the petitioner and against the respondent. Let a copy of this award be sent to the appropriate Government for publication in official gazette."

5. Feeling aggrieved, the writ petitioner-appellant questioned the said award by the medium of the writ petition.

6. The writ petitioner-appellant has questioned the award on grounds No. 5(a) to 5(e), taken in the memo of the writ petition.

7. While going through the aforesaid grounds taken in the writ petition, one comes to an inescapable conclusion that the grounds taken by the writ petitioner-appellant are merit less for the following reasons.

8. The parties have led evidence and the Labour Court after appreciating the evidence on record, made the award.

9. It is a beaten law of the land that the Writ Court and the Appellate Court cannot sit as an appellate Court made by the Labour Court and set aside the award, which is based on evidence and facts.

10. The Apex Court in case titled as Bhuvnesh Bhuvnesh Bhuvnesh Kumar Dwivedi v. M/s. Hindalco Industries Ltd., reported in 2014 AIR SCW 3157, held that the findings of fact recorded by Tribunal as a result of the appreciation of evidence cannot be questioned in writ proceedings and the Writ Court cannot act as an Appellate Court. It is profitable to reproduce para 18 of the judgment herein:

"18. A careful reading of the judgments reveals that the High Court can interfere with an Order of the Tribunal only on the procedural level and in cases, where the decision of the lower courts has been arrived at in gross violation of the legal principles. The High Court shall interfere with factual aspect placed before the Labour Courts only when it is convinced that the Labour Court has made patent mistakes in admitting evidence illegally or have made grave errors in law in coming to the conclusion on facts. The High Court granting contrary relief under

Articles 226 and 227 of the Constitution amounts to exceeding its jurisdiction conferred upon it. Therefore, we accordingly answer the point No. 1 in favour of the appellant."

11. This Court has also laid down the same principle in a batch of writ petitions, CWP No. 4622 of 2013, titled as M/s. Himachal Futuristic Communications Ltd. v. State of HP and another, being the lead case, decided on 04.08.2014. It is worthwhile to reproduce para 13 of the judgment herein:

"13. Applying the test to the instant case, the question of fact determined by the Tribunal cannot be made subject matter of the writ petition and more so, when the writ petitioner(s) have failed to prove the defence raised, in answer to the references before the Tribunal. "

12. This Court in a series of cases, being CWP No. 4622 of 2013 (supra); LPA No. 485 of 2012, titled as Arpana Kumari v. State of H.P. and others, decided on 11th August, 2014; LPA No. 23 of 2006, titled as Ajmer Singh v. State of H.P. and others, decided on 21st August, 2014; LPA No. 125 of 2014, titled as M/s. Delux Enterprises v. H.P. State Electricity Board Ltd. & others, decided on 21st October, 2014; and LPA No. 143 of 2015, titled Gurcharan Singh (deceased) through his LRs v. State of H.P. and others, decided on 15th December, 2015, while relying upon the latest decision of the Apex Court in Bhuvnesh Kumar Dwivedi's case (supra), has held that question of fact cannot be interfered with by the Writ Court.

13. Having said so, the writ petition was not maintainable.

14. Learned Single Judge has rightly made the impugned judgment.

15. In the given circumstances, no interference is required. Accordingly, the impugned judgment is upheld and the appeal is dismissed.