

(2023) 07 JH CK 0020

In the Jharkhand High Court

Case No : Latter Patent Appeals No. 41, 56 Of 2020

Ram Manohar Dubey And Others

APPELLANT

Vs

M/S Tata Engineering And Locomotive Company Limited And
Others

RESPONDENT

Date of Decision : 13-07-2023

Acts Referred:

Constitution Of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 10, 10(1), 10(1)(C), 12
Companies Act, 2013 — Section 630

Citation : (2023) 07 JH CK 0020

Hon'ble Judges : Sujit Narayan Prasad, J; Sanjay Kumar Dwivedi, J

Bench : Division Bench

Advocate : Mahesh Tewari, Rashmi Kumar, Suresh Kumar, Rashmi Kumar,
Mahesh Tewari

Final Decision : Dismissed

Judgement

Sanjay Kumar Dwivedi, J

1. These appeals were heard at length on 26.06.2023 and on that day, after hearing the parties, the limitation petitions filed in L.P.A. Nos. 56 of 2020 and 41 of 2020 were allowed and delay was condoned and the judgment was reserved.

2. L.P.A. No.56 of 2020 has been filed by the concerned workman aggrieved with the order passed by the learned Single Judge dated 07.11.2019 in W.P.(L) No.5945/2006, whereby, he has been pleased to modify the award dated 27.03.2006 passed by the learned Presiding Officer, Labour Court, Jamshedpur in Reference Case No. 13/1995 by directing the petitioner's company to pay a lump sum compensation of Rs.2 Lakhs to the concerned workman within a period of 6 weeks from the date of receipt/production of the copy of that order. The said order passed by the learned Single Judge has also been challenged by the company, namely, M/s Tata Engineering and Locomotive Company Limited now Tata Motors Limited in L.P.A. No.41 of 2020.

3. Since common question of facts and laws are involved in both the L.P.As., with consent of the parties, the Court has heard both the L.P.As. together.

4. Reference Case No.13/1995 was referred by the appropriate Government under Section 10(1)(C) of the Industrial Disputes Act, 1947 and the term of reference was as under:

“Whether the termination of service of Sri Ram Manohar Dubey, workman of M/S Tata Engineering and Locomotive Company Ltd., Jamshedpur by the management is proper? If not, what relief the workman is entitled to?”

Accordingly on the above term, Reference Case No.13/1995 was registered between the Management and the workman.

5. Before the learned Labour Court, the case of the Management was that the concerned workman, namely, Ram Manohar Dubey was initially appointed in the company in the year 1959 and he discharged from the service of the company in or about 1964. The workman was again employed w.e.f. 01.04.1978 as Attendant in the Town Administration Department of General Administration Division of the company.

The Management contended before the learned Labour Court that the Company is having work standing orders certified under the provisions of the Industrial Employment (Standing Orders) Act, 1946 which provides procedure for taking disciplinary action against erring employees and misconducts have also been discussed therein. In the same Standing Order, Sub-clause XXV is also there which speaks of unauthorized occupation or use of Company's quarter as an act of misconduct on the part of the employee and if it is proved, it renders the employee liable to be terminated. As per Rule 26 of the Standing Orders of the Company, an enquiry is required to be held if any misconduct is alleged against the employee.

The Company is having housing colony and it provides accommodation to its employees. It was alleged that the Quarter No.K2/7 of the Company situated at Cross-Road No.23 in Telco Colony was unauthorizedly occupied by the workman. The Company vide letter dated 20.03.1982 advised the workman to vacate the quarter, which was refused by the workman. In spite of several opportunities provided to the workman to vacate the quarter, he did not do so and that is why there is misconduct of unauthorized occupation or use of the Company's quarter. Thereafter, charge-sheet No.11/82 was served to the workman and he was asked to submit his explanation by 11.05.1982 and Enquiry Officer was appointed. Since the workman did not submit his explanation in spite of giving several opportunities to him, the enquiry was proceeded exparte and finally on 14.07.1982, the workman participated in the enquiry. After completion of the enquiry, a report was submitted by the Enquiry Officer, whereby, the workman was found guilty of charge of unauthorized occupation of the said quarter under Sub-clause XXV of Order

24. The competent officer of the Company, after going through the enquiry report, has passed order of punishment and the workman was discharged from his service.

It was also contended by the Management before the learned Labour Court that the said discharge is not for his past conduct. The workman was served with charge-sheet on 20.03.1982 for having been found missing from his appointed place of work without authority on 15.03.1982 and after following proper procedure for taking disciplinary action, he was suspended as a measure of punishment for 15 days from 01.04.1983 to 15.04.1983 vide office order dated 30.03.1983. The workman has committed misconduct on 17.03.1982 for which a charge-sheet was issued on 26.03.1982 and enquiry was conducted as per Standing Orders of the Company, in which, the workman was found guilty and he was punished for suspension for 15 days.

The Management has also contended before the learned Labour Court that the workman was discharged from service w.e.f. 01.05.1983 and statement of demand was raised for the first time on 15.12.1989 to the Management and after six years of raising demand, the dispute was referred by the appropriate Government for adjudication before the learned Labour Court in the year 1995. On this ground, the Management has pleaded that the reference is stale one.

6. The workman appeared before the learned Labour Court and contested the reference and contended that his service was terminated in the year 1964 by the Management due to his Trade Union activities. The workman was taken into service after long litigation in the year 1978. The workman was allotted Company's Quarter No.K-2/7 situated at cross-Road No.23 in Telco Colony, which was unauthorizedly occupied by Mr. I.A. Khan, who was police personnel of the Government of Bihar and during Emergency period he was deputed in Telco. After approaching the high officials of the police department of the State of Bihar, Mr. I.A. Khan had vacated the said quarter and after that, the workman started to live in the said quarter with due information to the Management.

In the year 1982, the Management decided to demolish about 10 quarters including Quarter No.K-2/7 as vacant land was required to be given to Little Flower School, run and managed by the Telco Management. All the workmen residing in those quarters demanded substitute quarter for their accommodation including the workman and the other workmen were provided substitute quarters, but this workman was refused and he was chargesheeted for unauthorized occupation and was removed from his service. Later on, the quarter in possession of the workman was demolished and vacant land was given to Little Flower School.

It was also contended by the workman that he neither committed any misconduct nor guilty of any misconduct and allegation against him is completely false, fabricated and grudge oriented. The workman was victimised for his Trade Union activities. It was contended that he was not provided another quarter in

alternative and charge-sheets were submitted and punishment of discharge was imposed.

It was further contended that the Enquiry Officer and the person who has punished the workman, were not competent person on behalf of the Company and they are not authorised for the purpose under Article of Association of Telco or under certified Standing Orders of the Telco. The quantum of punishment passed against him is harsh and disproportionate. He rendered his service honestly and sincerely. On these grounds, the workman prayed for reinstatement in service with full back wages.

7. Based on the pleadings of the Management and the workman as well as documentary evidence and oral witnesses, the learned Labour Court passed the award dated 27.03.2006 holding that termination of service of the workman Sri Ram Manohar Dubey is not proper and the same was set aside and the Management was directed to reinstate the workman in service with all the back wages benefits with continuity of service.

8. The said award was challenged by the Management in W.P.(L) No.5945 of 2006, which was decided by the learned Single Judge vide order dated 07.11.2019 and considering that the workman has already attained the age of superannuation and to meet the ends of justice and also considering clear finding of the learned Labour Court that the workman was not found guilty of any misconduct, the learned Single Judge modified the award to the extent that respondent no.2 i.e. the workman should be awarded a lump sum compensation of Rs.2 Lakhs within a period of six weeks from the date of receipt/production of a copy of that order.

9. Aggrieved with the order of the learned Single Judge, the Management and the workman, both have filed separate L.P.As.

10. Mrs. Rashmi Kumar, learned counsel appearing for the appellant/Management has submitted that the finding of the learned Single Judge is erroneous in view of the fact that once the Labour Court has given finding about domestic enquiry as fair and proper, which has also been upheld by the learned Single Judge and, accordingly, the learned Single Judge was not required to only modify the award, however the award itself was fit to be set aside.

She has further submitted that the said reference has been made after lapse of 6 and ½ years of dismissal of the workman and that is a stale reference and reference itself was not maintainable. To buttress this argument, she relied upon the judgment passed in Prabhakar v. Joint Director, Sericulture Department and another; [(2015) 15 SCC 1]. By relying on this judgment, she has submitted that claim made in belated reference was stale and entire award was perverse.

She has also submitted that the learned Single Judge has modified the award without considering that the workman was given several opportunities and he was punished several times for his conduct and after being re-employed, he

worked for less than 5 years. She has submitted that the said quarter was not vacated in spite of communication issued by the superior and this aspect of the matter was not appreciated by the learned Single Judge and he has only interfered with the award, which is not correct. She has submitted that the learned Single Judge has failed to consider that for the period of discharge, the workman was gainfully employed and compensation of Rs.2 Lakhs was unwarranted. On these grounds, she has submitted that the order of the learned Single Judge may kindly be interfered with.

11. Mr. Mahesh Tewari, learned counsel appearing for the concerned workman, namely, Ram Manohar Dubey, has submitted that the learned Single Judge has not appreciated the facts from the correct angle, both on the point of law as well as on the point of facts. He has submitted that in view of the award, the concerned workman is entitled for an amount of about Rs.30 Lakhs, whereas, the learned Single Judge has modified the award to the tune of Rs.2 Lakhs only. He has submitted that the learned Labour Court held that the stand of the Management to ask the vacant possession of quarter from an employee who is working in the Company without providing him alternative arrangement for his abode is against natural justice, ethics and normal human behaviour. He further submitted that the workman was not guilty of any misconduct and his termination from service was rightly set aside by the learned Labour Court and interference by the learned Single Judge was not warranted. He further submitted that the learned Labour Court has rightly passed the said award considering that termination was found to be illegal. He further submitted that the learned Single Judge has travelled beyond the terms of reference and the learned Single Judge was not expected to interfere with the award sitting under Article 226 of the Constitution of India.

He has further submitted that there is no limitation prescribed in the Industrial Disputes Act for making a reference and from any angle, it cannot be said that the reference was stale. To buttress this argument, he relied upon the judgment passed in *Raghubir Singh v. General Manager, Haryana Roadways, Hissar*; [(2014) 10 SCC 301].

By relying on this judgment, he has submitted that interference with the award by the learned Single Judge is unwarranted and the same is fit to be interfered with by this Court.

12. In view of the above facts and submissions of the learned counsel appearing for the parties, we have carefully gone through the award dated 27.03.2006, the order passed by the learned Single Judge dated 07.11.2019 including the L.C.R.

13. It is an admitted fact that propriety of the enquiry was taken as preliminary issue by the learned Labour Court and vide order dated 16.07.2005, the learned Labour Court held the enquiry fair and proper. The learned Labour Court at paragraph 18 of the award dated 27.03.2006 has held that prior to joining of the concerned workman in service in the year 1978, the said quarter was under

unauthorized occupation of one Mr. I.A. Khan, who was in company's service in the security department and left the service on 02.07.1977 and no quarter was allotted to the concerned workman and the quarter was asked to be vacated by the concerned workman. The learned Labour Court found that the workman was chargesheeted on 20.03.1982 and one of the Management witness has stated that the concerned workman was in occupation of the said quarter w.e.f. 20.07.1979 and in the charge-sheet, the date has not been disclosed as from which date the said quarter was in authorized occupation of the concerned workman.

14. The learned Single Judge on the point of occupation of the quarter has considered the stand of the concerned workman that he was orally directed by the company's management to occupy the said quarter after getting the same vacated by one I. A. Khan, who himself was in unauthorized occupation of the same after leaving the services of the company. The learned Single Judge found that the concerned workman got the said quarter vacated after much efforts and came in possession of the same. The concerned workman was in the company's services at the relevant point of time. M.W-1 (M. K. Sinha) deposed during the industrial adjudication that he came to know in the month of June, 1981 that the workman had occupied the said quarter. Further, M.W-2 (B. B. Pandey) deposed that the concerned workman was occupying the said quarter since 20.07.1979. The learned Single Judge found that the Management of the Company had knowledge about the fact that the concerned workman was in unauthorized occupation of the company's quarter and no prompt action was taken to get the said quarter vacated or to allot it in his favour as per the company's rules. The learned Single Judge found that the quarter of the concerned workman as well as ten other quarters got vacated by the Management for the purpose of allotting the same to Little Flower School. The other workmen were allotted the alternative quarters, however the concerned workman has not been allotted the quarter. Thus, the writ Court has found that the finding of the learned Labour Court on the point of quarter as a valid one.

15. In course of argument, the Court put question to the learned counsel appearing for the Management as to whether any proceeding under Section 630 of the Companies Act for vacating the quarter in question has been initiated by the Management or not? The answer was in negative by the learned counsel for the Management. Thus, on the point of allotment of quarter, we find that there is no apparent error in the finding of the learned Labour Court as well as the learned Single Judge.

16. So far as the point of stale reference is concerned, that depends upon the facts and circumstances of each case as well as reference. There is no doubt that law does not prescribe any time-limit for the appropriate Government to exercise its power under Section 10 of the Industrial Disputes Act and this power cannot be exercised at any point of time and to revise the matter which has already been settled. The power is to be exercised reasonably and in a rational manner. A

reference may be made to the judgment passed by the Hon'ble Supreme Court in Prabhakar v. Joint Director, Sericulture Department and another; [(2015) 15 SCC 1]. Paragraph 44 of the said judgment is quoted hereinbelow:

"44. To summarise, although there is no limitation prescribed under the Act for making a reference under Section 10(1) of the ID Act, yet it is for the "appropriate Government" to consider whether it is expedient or not to make the reference. The words "at any time" used in Section 10(1) do not admit of any limitation in making an order of reference and laws of limitation are not applicable to proceedings under the ID Act. However, the policy of industrial adjudication is that very stale claims should not be generally encouraged or allowed inasmuch as unless there is satisfactory explanation for delay as, apart from the obvious risk to industrial peace from the entertainment of claims after long lapse of time, it is necessary also to take into account the unsettling effect which it is likely to have on the employers' financial arrangement and to avoid dislocation of an industry."

17. Thus, it is clear that generally when claim is not required to be referred for reference, however if satisfaction is there and claim is not settled, the reference can be made.

18. In the case in hand, the Management has issued charge-sheet for misconduct in the year 1982 for the alleged misconduct of the year 1979 without taking any recourse under the law for vacating the said quarter and if such a situation is there, only on the ground of delay, the said reference cannot be said to be stale particularly when the same was not set at rest by any Court of law at the earlier point of time.

19. Further the said reference on the point of delay was not challenged by the Management by way of filing any writ petition before the High Court. It is well-settled that the the High Court can entertain a writ petition impugning a reference on the ground of non-existence of an actual or apprehended industrial dispute. A reference may be made to the judgment passed in National Engineering Industries Ltd. v. State of Rajasthan and others; [(2000) 1 SCC 371]. Paragraphs 27 and 28 of the said judgment are quoted hereinbelow:

"27. The Industrial Tribunal is the creation of a statute and it gets jurisdiction on the basis of reference. It cannot go into the question on validity of the reference. The question before the High Court was one of jurisdiction which it failed to consider. A tripartite settlement has been arrived at among the Management, the Labour Union and the Staff Union. When such a settlement is arrived at it is a package deal. In such a deal some demands may be left out. It is not that demands, which are left out, should be specifically mentioned in the settlement. It is not the contention of the Workers' Union that the tripartite settlement is in any way mala fide. It has been contended by the Workers' Union that the settlement was not arrived at during the conciliation proceedings under Section 12 of the Act and as such was not binding on the members of the Workers'

Union. This contention is without any basis as the recitals to the tripartite settlement clearly show that the settlement was arrived at during the conciliation proceedings.

28. The State Government failed to give due consideration to the direction of the High Court in its judgment dated 23-3-1989. The State Government also failed in its duty to bring to the notice of the High Court its notification dated 17-3-1989 making the impugned reference. It appears to us that the reference had occasioned while the judgment had been reserved by the High Court. In any case it was expected of the State Government to bring to the notice of the High Court before making a reference its decision to make the reference. After the judgment had been announced and directions issued by the High Court to hear the appellant it was incumbent on the State Government, in the circumstances of the case, to recall the reference. It could not direct the appellant to raise its objection to reference before the Industrial Tribunal for which the Industrial Tribunal certainly lacked jurisdiction. The State Government before making the reference did not consider all the relevant considerations which would clothe it with the power to make the reference under Section 10 of the Act. We find substance in the submissions of Mr Pai. Wholesale reference of all the disputes in the charter of demands of the Workers' Union for adjudication was also bad inasmuch as many of such disputes were already the subject-matter of the tripartite settlement. This also shows non-application of mind by the State Government in making the reference."

20. Thus, we find that the finding of the learned Labour Court as well as the learned Single Judge on the point of stale, is correct.

21. The certiorari jurisdiction of the High Court under Article 226 of the Constitution of India will only lie if the decision relates to anything collateral to the merit, an erroneous decision upon which would affect its jurisdiction, a writ of certiorari would lie, as has been held by the Hon'ble Supreme Court in *Parry & Co. Ltd. v. Commercial Employees Association*; (AIR 1952 SC 179). This aspect of the matter was again subject matter before the Hon'ble Supreme Court in *T.C. Basappa v. T. Nagappa*, (AIR 1954 SC 440), wherein, it has been held by the Hon'ble Supreme Court in paragraphs 7, 9 and 10 as under:

"7. ... The second essential feature of a writ of certiorari is that the control which is exercised through it over judicial or quasi-judicial tribunals or bodies is not in an appellate but supervisory capacity. In granting a writ of certiorari the superior court does not exercise the powers of an appellate tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The offending order or proceeding so to say is put out of the way as one which should not be used to the detriment of any person [*Vide Per Lord Cairns in Walshall's Overseers v. London and North Western Railway Co.*, (1879) 4 AC 30, 39.].

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9. Certiorari may lie and is generally granted when a court has acted without or in excess of its jurisdiction. The want of jurisdiction may arise from the nature of the subject-matter of the proceeding or from the absence of some preliminary proceeding or the court itself may not be legally constituted or suffer from certain disability by reason of extraneous circumstances [Vide Halsbury, 2nd Edn., Vol. IX, p. 880]. When the jurisdiction of the court depends upon the existence of some collateral fact, it is well settled that the court cannot by a wrong decision of the fact give it jurisdiction which it would not otherwise possess [Vide Banbury v. Fuller, 9 Exch. 111; R v. Income Tax Special Purposes Commissioners, 21 QBD 313].

10. A tribunal may be competent to enter upon an enquiry but in making the enquiry it may act in flagrant disregard of the rules of procedure or where no particular procedure is prescribed, it may violate the principles of natural justice. A writ of certiorari may be available in such cases. An error in the decision or determination itself may also be amenable to a writ of certiorari but it must be a manifest error apparent on the face of the proceedings, e.g. when it is based on clear ignorance or disregard of the provisions of law. ...”

(Emphasis supplied)

22. Under what circumstance, the writ of certiorai can be issued was again the subject matter before the Hon'ble Supreme Court in Hari Vishnu Kamath v. Ahmed Ishaque & others; (AIR 1955 SC 233) wherein, at paragraphs 21 and 23, it has been held by the Hon'ble Supreme Court as under:

“21. ... On these authorities, the following propositions may be taken as established: (1) Certiorari will be issued for correcting errors of jurisdiction, as when an inferior Court or Tribunal acts without jurisdiction or in excess of it, or fails to exercise it. (2) Certiorari will also be issued when the court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice. (3) The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous. This is on the principle that a court which has jurisdiction over a subject-matter has jurisdiction to decide wrong as well as right, and when the legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy, if a superior court were to rehear the case on the evidence, and substitute its own findings in certiorari. These propositions are well-settled and are not in dispute.

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23. It may therefore be taken as settled that a writ of certiorari could be issued to correct an error of law. But it is essential that it should be something more

than a mere error; it must be one which must be manifest on the face of the record. ... The fact is that what is an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case."

(Emphasis supplied)

23. The decision of the Tribunal can be questioned only if it is on any unsupported evidence. A reference may be made to the judgment passed in Dharangadhara Chemical Works Ltd. v. State of Saurashtra and others; (AIR 1957 SC 264), wherein it has been held at paragraph 19 as under:

"19. ... It is equally well settled that the decision of the Tribunal on a question of fact which it has jurisdiction to determine is not liable to be questioned in proceedings under Article 226 of the Constitution unless at the least it is shown to be fully unsupported by evidence."

(Emphasis supplied)

24. It is further well-settled that 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. A reference may be made to the judgment passed in Syed Yakoob v. K.S. Radhakrishnan and another; (AIR 1964 SC 477), wherein it has been held at paragraph 7 as under:

"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 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 improperly, 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 a 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 a finding of fact recorded by the tribunal, a writ of certiorari can be issued if it is shown that 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 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 (vide *Hari Vishnu Kamath v. Ahmad Ishaque* [AIR 1955 SC 233] , *Nagendra Nath Bora v. Commr. of Hills Division and Appeals* [AIR 1958 SC 398] and *Kaushalya Devi v. Bachittar Singh* [AIR 1960 SC 1168])."

(Emphasis supplied)

25. In view of the above judgments, certiorari will only lie if the finding of fact recorded by the Tribunal found not correct, in appeal until and unless it is proved glaring discrepancy or mistake had taken place. In the case in hand, nothing could be pointed out as to any glaring discrepancy or mistake in the impugned award of the learned Labour Court is there. Thus, we find that the learned Single Judge has rightly not interfered with the finding so far as setting aside the punishment is concerned. We also find that for delay of raising the reference, no sufficient cause has been shown by the concerned workman and further it has been held in catena of decisions that if reference is made belatedly, the Court can mould relief by way of restricting monetary benefit, which has been held in paragraph 43 in the case of *Prabhakar* (supra), which is quoted hereinbelow:

"43. We may hasten to clarify that in those cases where the court finds that dispute still existed, though raised belatedly, it is always permissible for the court to take the aspect of delay into consideration and mould the relief. In such cases, it is still open for the court to either grant reinstatement without back wages or lesser back wages or grant compensation instead of reinstatement. We are of the opinion that the law on this issue has to be applied in the aforesaid perspective in such matters."

26. We further find that on that point the learned Single Judge has rightly modified the award.

27. In an intra-court appeal, the Division Bench undoubtedly may be entitled to re-appraise both question of fact and law, but in entertaining the Letters Patent Appeal normally the Division Bench would not unless there exists cogent reason differ from the finding of fact arrived at by the learned Single Judge. The power of the appellate court in intra-court appeal is not exactly the same as contained in Section 100 of the Code of Civil Procedure, however it is well known that for entertaining the Letters Patent Appeal, interference is required when there exists cogent reason differ from the finding of fact arrived at by the learned Single

Judge.

28. In view of the above facts, reasons and analysis, no interference is required with the order of the learned Single Judge dated 07.11.2019 passed in W.P.(L) No. 5945 of 2006.

29. Accordingly, both these appeals are dismissed.