
(2016) 05 SHI CK 0007
In the High Court Of Himachal Pradesh
Case No : LPA No. 16 of 2016

Ram Paul

APPELLANT

Vs

Himachal Pradesh State Electricity Board Limited

RESPONDENT

Date of Decision : 19-05-2016

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1)

Citation : (2016) 3 CLR 131 : (2016) 151 FLR 456 : (2016) sup HimLR 3021

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

Bench : Division Bench

Advocate : Mr. Onkar Jairath, Advocate, for the Appellant; Mr. Satyen Vaidya, Senior Advocate, with Mr. Vivek Sharma, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Mansoor Ahmad Mir, C.J.—Challenge in this appeal is to judgment and order, dated 26th September, 2012, made by the Writ Court/learned Single Judge in CWP No. 7111 of 2010, titled as Himachal Pradesh State Electricity Board and another v. Shri Ram Pal, whereby the award made by the Labour Court came to be partly set aside (for short "the impugned judgment").

2. It appears that the parties were in the lis for a considerable period of time and ultimately reference was made to the Labour Court, which was taken to its conclusion vide award, dated 23rd July, 2010.

3. It is apt to record herein that the parties had led evidence and placed on record evidence, oral as well as documentary, on the basis of which the Labour Court has passed the award.

4. The moot question is - whether the Writ Court was within its jurisdiction to partly set aside the award made by the Labour Court, so far it relates to the factual aspects? The answer is in the negative for the following reasons:

5. The Apex Court in the case titled as Bhuvnesh Kumar Dwivedi v. M/s. Hindalco

Industries Ltd., reported in 2014 AIR SCW 3157, held that the findings of fact reached 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."

6. 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. "

7. 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; LPA No. 143 of 2015, titled as Gurcharan Singh (deceased) through its LRs v. State of H.P. and others, decided on 15th December, 2015, and LPA No. 207 of 2015, titled as State of H.P. and another v. Gagan Singh, decided on 16th 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. However, such findings can be questioned if it is shown that the Tribunal/Court has erroneously refused to admit admissible and material evidence or has erroneously admitted inadmissible evidence, which has influenced the impugned findings.

8. It is not the case of the writ petitioners that inadmissible evidence was recorded and that was made the foundation of the award or the award was passed without any evidence.

9. Having said so, the Writ Court/learned Single Judge has fallen in an error in passing the impugned judgment.

10. In view of the above, appeal is allowed, the impugned judgment is set aside, the writ petition is dismissed and the award made by the Labour Court is maintained.

11. Pending applications, if any, are also disposed of accordingly.