
(2008) 03 RAJ CK 0137
In the Rajasthan High Court

R.S.R.T.C. and Another

APPELLANT

Vs

Om Prakash Sharma and Another

RESPONDENT

Date of Decision : 07-03-2008

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2008) 118 FLR 746

Hon'ble Judges : Mahesh Chandra Sharma, J

Bench : Single Bench

Judgement

Mahesh Chandra Sharma, J.—By filing this petition the petitioner has prayed to quash and set-aside the order dated 5.4.1997 passed by learned Labour Judge & Industrial Tribunal, Ajmer (for short "the learned Tribunal).

2. Brief facts of the case according to the petitioner-Corporation are that the non-petitioner No. 1 filed an application u/s 33(c)(2) of the Industrial Disputes Act, 1947 (for short "the Act of 1947"), claiming therein the benefit of wages of the post of Artisen Grade I & II. It was stated that the Union had raised a dispute regarding grant of wages of the post of Artisen Gr. II in favour of few employees, who alleged to have been the member of the Union. The said dispute was thereafter, registered as IT No. 124/88, and the learned Tribunal after hearing passed the award on 9.10.1995. Petitioner-Corporation further mentioned in the petition that it preferred a writ petition in as much as the award so passed by the learned Tribunal was passed on perverse finding and was otherwise also illegal. In-fact the member of the respondent-Union was not eligible and entitled for the benefit so claimed in the dispute which was then referred to the learned Tribunal for its adjudication and the writ petition preferred by the petitioner-Corporation is still pending. During pendency of the writ petition, the non-petitioner No. 1 preferred an application before the learned Tribunal. The learned Tribunal after hearing both the learned Counsel, decided the application moved by respondent No. 1 for computation of wages vide its order dated 5.4.1997. The petitioner-Corporation being aggrieved with the aforesaid order, has preferred the instant

petition before this Court stating therein that when the writ petition was pending in this Court and the award so passed by the learned Tribunal cannot be said to be final then adjudication of the application has erroneously been made.

3. In rebuttal the petitioner-Corporation filed reply to the application before the learned Tribunal stating therein that the said award has been challenged in this Court and because of this reason, the learned Tribunal cannot hear the application moved u/s 33 (c) (2).

4. I have heard learned Counsel for both the parties and carefully gone through the entire material placed before me including the order dated 5.4.1997 passed by learned Tribunal;

5. In *Sadhana Lodh Vs. National Insurance Company Ltd. and Another*, Hon''ble the Apex Court has held as under:

The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is confined only to see whether an inferior Court or Tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In exercising the supervisory power under Article 226 of the Constitution, the High Court does not act as an appellate Court or the Tribunal. It is also not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or reweigh the evidence upon which the inferior Court or Tribunal purports to have passed the order or to correct errors of law in the decision.

6. The wide jurisdiction conferred under Articles 226 and 227 of the Constitution of India has to be exercised with great circumspection. The High Court cannot constitute itself into an appellate Court over Tribunals. Article 226/227 is a device to secure and advance justice and not otherwise, In a case of this nature, it is true, the High Court exercising the power of judicial review, would not interfere with the discretion of a Tribunal unless the same is found to be illegal or irrational. In an application for a writ of certiorari under Article 226 of the Constitution for quashing an award of an Industrial Tribunal, the jurisdiction of the High Court is very limited. It can quash the award, inter alia, when the Tribunal has committed an error of law apparent on the face of record on when the finding of facts of the Tribunal is wholly perverse. It is also a settled law that in the exercise of its certiorari jurisdiction under Article 226 of the Constitution, the High Court acts only in a supervisory capacity and not as an appellate Tribunal. It does not review the evidence upon which the inferior Tribunal proposed to base its conclusion, it simply demolished the order which it considers to be without jurisdiction or manifestly erroneous, but does not, as a rule, substitute its own view for those of the inferior Tribunal.

7. The writ petition is partly allowed accordingly and the order dated 5.4.1997 passed by learned Tribunal is maintained except awarding of interest on this amount The petitioner-Corporation is directed to release Rs. 65277/- to respondent No. 1. within a period of one month from the date of receipt a

certified copy of this order. However, the respondent No. 1 shall not be entitled for interest on this amount. There shall be no order as to costs.