

(2016) 07 SHI CK 0002
In the High Court Of Himachal Pradesh
Case No : L.P.A. No. 59 of 2016

Shri Surender Kumar

APPELLANT

Vs

The State of Himachal Pradesh

RESPONDENT

Date of Decision : 14-07-2016

Acts Referred:

Citation : (2017) 1 CLR 341 : (2016) 150 FLR 970

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

Bench : Division Bench

Advocate : Mr. V.D. Khidta, Advocate, for the Appellant; Mr. Shrawan Dogra, Advocate General with Mr. Anup Rattan, Mr. Romesh Verma, Additional Advocate Generals and Mr. J.K. Verma, Deputy Advocate General, for the Respondent

Final Decision : Dismissed

Judgement

Mansoor Ahmad Mir, C.J. (Oral) - This Letters Patent Appeal is directed against the judgment and order dated 26.02.2016, passed by the learned Single Judge in CWP No. 10059 of 2012, titled as Surender Kumar v. State of Himachal Pradesh & others, whereby the writ petition came to be dismissed, 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. Services of the writ petitioner appellant were terminated, dispute was raised under the Industrial Disputes Act, 1947, (for short ?the Act), the matter was referred by the competent Authority to the Labour Court-cum-Industrial Tribunal, for short ?the Labour Court?.

4. The Labour Court entered into the reference and issues were framed. Parties led their evidence and the Labour Court after examining the pleadings and the evidence led by the parties, dismissed the claim of the petitioner.

5. The award passed by the Labour Court is based on the facts and the evidence led by the parties.

6. It is a beaten law of the land that the Writ Court and the Appellate Court cannot sit over the factual findings returned by Labour Court, unless the same are trash and illegal.

7. The Apex Court in case titled as 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."

8. 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. "

9. This Court in a series of cases, being CWP No. 4622 of 2013 (supra); L.P.A. No.485 of 2012, titled as Arpana Kumari v. State of H.P. and others, decided on 11th August, 2014; L.P.A. No.23 of 2006, titled as Ajmer Singh v. State of H.P. and others, decided on 21st August, 2014; L.P.A. 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.

10. Labour Court after examining the facts and appreciating the evidence made the award, came to be rightly upheld by the Writ Court.

11. The writ petitioner appellant has not been able to carve out a case for

interference.

12. Having said so, no interference is required.

13. Accordingly, the impugned judgment is upheld and the appeal is dismissed. .