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(2016) 04 SHI CK 0048

In the High Court Of Himachal Pradesh

Case No : LPAs Nos. 41 to 47 of 2016

State of H.P. — APPELLANT

Vs

Karam Chand — RESPONDENT

Date of Decision : 13-04-2016

Acts Referred:
Industrial Disputes Act, 1947 — Section 25

Citation : (2016) ILRHP 1183

Hon'ble Judges : Mansoor Ahmad Mir, CJ. and Chander Bhusan, J.

Bench : Division Bench

Advocate : Mr. Shrawan Dogra, Advocate General, with Mr. Anup Rattan and Mr. Romesh Verma, Additional Advocate Generals, and Mr. J.K. Verma, Deputy Advocate General, for the Appellants; Mr. Naresh Kaul, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Mansoor Ahmad Mir, C.J.(Oral)—CMP(M) No. 1504 of 2015 in LPA No. 41 of 2016

CMP(M) No. 1521 of 2015 in LPA No. 42 of 2016

CMP(M) No. 1502 of 2015 in LPA No. 43 of 2016

CMP(M) No. 1523 of 2015 in LPA No. 44 of 2016

CMP(M) No. 1524 of 2015 in LPA No. 45 of 2016

CMP(M) No. 1522 of 2015 in LPA No. 46 of 2016

CMP(M) No. 1503 of 2015 in LPA No. 47 of 2016

By the medium of these limitation petitions, the appellants-applicants have sought condonation of delay, which has crept in filing the present appeals.

2. We have gone through the limitation petitions read with the impugned judgments and are of the considered view that the appellants-applicants have

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carved out sufficient cause for condoning the delay. Accordingly, the delay is condoned. The limitation petitions are disposed of.

LPAs No. 41 to 47 of 2016

3. Appeals are taken on Board.

4. Issue notice. Mr. Naresh Kaul, Advocate, waives notice for the respondent(s) in all the appeals.

5. These appeals are directed against the judgments and orders made by the Writ Courts on different dates, whereby the writ petitions filed by the writ petitioners-appellants herein came to be dismissed (for short "the impugned judgments").

6. We have gone through the impugned judgments, which are legally correct for the following reasons.

7. Services of the respondents were terminated, disputes were raised under the Industrial Disputes Act, 1947, (for short "the Act"), the matters were referred by the competent Authority to the Labour Court-cum-Industrial Tribunal, (for short the "Labour Court").

8. The Labour Court entered into the references and issues were framed. Parties led their evidence and the Labour Court, after examining the pleadings and the evidence led by the parties, held vide the respective awards, that the workmen were entitled to the relief and made the awards.

9. The awards passed by the Labour Court are based on the facts and the evidence led by the parties. It is well settled principle of law that the Writ Court cannot sit as an Appellate Court and set aside the award made by the Labour Court, which is based on evidence and facts.

10. 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 have 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."

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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. 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.

13. It is not the case of the writ petitioners-appellants that inadmissible evidence was recorded and that was made the foundation of the awards or the awards were passed without any evidence. The Writ Courts have rightly made the discussion and conclusions.

14. Having glance of the above discussion, we hold that the impugned judgments are speaking one, require no interference.

15. Viewed thus, the impugned judgments are upheld and the appeals are dismissed along with all pending applications.

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