

(2008) 03 GUJ CK 0002

In the Gujarat High Court

Case No : Special Civil Application No. 20044 of 2007

Surat Ammonia Supply Company

APPELLANT

Vs

Himanshu Jayantilal Joshi

RESPONDENT

Date of Decision : 12-03-2008

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 — Section 9

Industrial Disputes Act, 1947 — Section 10, 11, 11(1), 15, 33(2)

Citation : (2008) 03 GUJ CK 0002

Hon'ble Judges : H.K. Rathod, J

Bench : Single Bench

Advocate : S.J. Shah and N.D. Songara, for the Appellant; M.S. Mansuri, for Respondent 1, for the Respondent

Final Decision : Dismissed

Judgement

H.K. Rathod, J.—Heard learned advocate Mr. S.J. Shah appearing on behalf of petitioner - Surat Ammonia Supply Company and learned advocate Mr. M.S. Mansuri appearing on behalf of respondent - workman.

2. In the present petition, petitioner has challenged the order dated 27th April 2007 vide Exh. 50 passed by Labour Court, Baroda, wherein, Labour Court has decided that whatever departmental inquiry conducted against the workman is held to be illegal, unreasonable and improper. The matter was fixed on 18th May 2007 for further evidence of the parties.

3. Learned advocate Mr. S.J. Shah appearing on behalf of petitioner submitted that respondent, as he has challenged the inquiry conducted by employer, should have to lead first evidence before the Labour Court for proving the fact that inquiry is illegal. He also submitted that respondent workman has not led any oral evidence, but, he gave closing purshis that he does not want to lead oral evidence in respect to the question of departmental inquiry and he relied upon the documents produced by petitioner. Therefore, he submitted that Labour

Court has committed gross error in coming to conclusion that it was a burden upon the employer to lead first evidence for proving the documents relating to departmental inquiry which are not exhibited before the Labour Court. The Labour Court has also come to conclusion that factum of inquiry is challenged by workman, therefore, employer shall have to prove the factum of inquiry by leading first evidence. Therefore, Labour Court has decided that no evidence was led by petitioner for proving the inquiry papers before the Labour Court which remained unexhibited, therefore, inquiry is vitiated as it is not proved. Therefore, Learned advocate Mr. S.J. Shah submitted that Labour Court has committed gross error.

4. Learned advocate Mr. Shah further submitted that Labour Court has passed an order vide Exh.11 directing the respondent workman to lead first evidence before the Labour Court as he has challenged the validity and legality of departmental inquiry on 20th September 2000. Therefore, it was a duty of workman to lead first evidence for challenging the departmental inquiry. He also submitted that Labour Court has not considered the order passed on Exh.11 dated 20th September 2000. He also submitted that entire departmental inquiry was conducted, but, it remained ex-parte and thereafter, vide Exh.10, xerox copy of documents produced by petitioner and subsequently, original papers of departmental inquiry were produced by petitioner before the Labour Court, but, that documents are not exhibited by the Labour Court. Therefore, he submitted that when workman is challenging the departmental inquiry, he should have to lead first evidence that on what basis or how, the departmental inquiry is vitiated. He further submitted that Labour Court has passed an order of declaring inquiry vitiated which is contrary to the settled law. He relied upon Para 6 of one decision of Apex Court in case of Krishna Bhagya Jala Nigam Ltd. Vs. Mohammed Rafi, which is quoted as under:

6. In R.M. Yellati v. The Asstt. Executive Engineer, the decisions referred to above were noted and it was held as follows:

Analyzing the above decisions of this Court, it is clear that the provisions of the Evidence Act in terms do not apply to the proceedings u/s 10 of the Industrial Disputes Act. However, applying general principles and on reading the aforesaid judgments, we find that this Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon he workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily waged earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus in most cases, the workman (claimant) can only call upon the employer to produce before the Court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The

above decisions however make it clear that mere affidavits or self-serving statements made by the claimant/ workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non-production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the Tribunal to draw an adverse inference against the management. Lastly, the above judgments lay down the basic principle, namely, that the High Court under Article 226 of the Constitution will not interfere with the concurrent findings of fact recorded by the Labour Court unless they are perverse. This exercise will depend upon facts of each case.

5. Learned advocate Mr. Mansuri appearing on behalf of respondent also submitted that workman has challenged the factum of inquiry, meaning thereby that, the existence of departmental inquiry itself is challenged by workman. Therefore, according to law, it was a duty of employer to prove the factum of inquiry first before the Labour Court by leading first evidence proving the documents, then, questions arise that whether inquiry conducted against the workman is vitiated or not. He further submitted that in this case, a bogus ex-parte inquiry was conducted by petitioner. The papers of inquiry prepared by petitioner in the office in absence of workman. So, there was no genuine inquiry at all conducted by petitioner. The documents produced by petitioner vide Exh.10 - the xerox papers of departmental inquiry, thereafter, original papers of departmental inquiry were produced by petitioner, but, that documents remained un-exhibited/not exhibited before the Labour Court. Therefore, applications given by petitioner before the Labour Court vide Exh.19 and 35 with a prayer to exhibit the original documents of inquiry and to direct the respondent workman to lead first evidence, but, Labour Court, after considering the various decisions and submissions made by both the learned advocates, rejected both the applications filed by petitioner vide Exh.19 and 35 on 30th October 2004. This order was not challenged by petitioner to the higher forum. Therefore, learned advocate Mr. Mansuri submitted that when Labour Court has refused to exhibit the documents produced by petitioner and rejected the applications by directing the workman to lead first evidence has been rejected, even though, petitioner has not led any oral evidence for proving original documents before the Labour Court. The documents may be original produced by petitioner, but, same must have to be proved by oral evidence of inquiry officer before the Labour Court, but, according to him, no oral evidence led by petitioner for proving the documents. Therefore, that documents remained un-exhibited, therefore, factum of inquiry in absence of exhibited documents, Labour Court has rightly come to conclusion that departmental inquiry is not proved by petitioner before the Labour Court and therefore, same is held to be illegal, improper and unreasonable. He submitted that Labour Court has not committed any error which requires interference by this Court.

6. I have considered the submissions made by both the learned advocates and I have also perused the orders passed by Labour Court vide Exh.11, 19 and 35

and Exh.50 - order in question. The simple question is involved in the petition, but, because of ego of both the parties, it cannot be solved till date, therefore, workman is the sufferer. The ex-parte departmental inquiry was conducted, but, that inquiry was not proved at all by petitioner when it was objected by workman. In a case when workman is not disputed the factum of inquiry, then, naturally, he should have to lead first evidence pointing out the illegality in the inquiry. But, in this case, workman has challenged the existence of departmental inquiry as it was bogus and not genuine as inquiry papers were prepared in the office of petitioner without giving any opportunity to the workman. Vide Exh.11, Labour Court had directed the respondent workman to lead first evidence in respect to the contentions raised in statement of claim. Thereafter, workman has given purshis vide Exh. 15 - Page 48 that it is declared by purshis on 27th March 2001 that there was no departmental inquiry conducted against the workman by the petitioner, therefore, factum of inquiry is not accepted by workman and in respect to the departmental inquiry at this stage, petitioner does not want to lead in oral evidence while relying upon the documents produced by petitioner, meaning thereby that, Exh.11 order has been complied by respondent workman, but, thereafter, it was a duty of the petitioner to lead oral evidence to prove the documents and factum of inquiry before the Labour Court. But, petitioner has failed in discharging the burden, because, no oral evidence was led by petitioner. Therefore, factum of inquiry was not proved before the Labour Court and documents were remained un-exhibited which cannot be relied upon by Labour Court unless it is exhibited.

6.1. The original documents of departmental inquiry must have to be proved by leading oral evidence, otherwise, un-exhibited documents cannot be relied upon by Labour Court and Labour Court has rightly not relied upon by un-exhibited documents of departmental inquiry. This is a small thing and because of ill-advise of the lawyer or misconception of law in the mind of lawyer and not properly advised to the petitioner that by purshis - Exh.15, workman's evidence was over, whether, in fact, he may be led oral evidence or may not, but, purshis is given by workman on the basis of the direction issued by Labour Court vide Exh.11 first. So, really, first evidence of the workman is over on the basis of the purshis vide Exh.15, then, petitioner must have to lead oral evidence to prove un-exhibited documents of departmental inquiry, but, petitioner has not understand the provisions that how to prove un-exhibited documents of departmental inquiry. These create difficulty and Labour Court has passed an order vide Exh.19 and 35 dated 30th October 2004 rejecting the application of petitioner not to exhibit the original papers of departmental inquiry. Even, thereafter also, petitioner must have to understand the law that un-exhibited documents cannot be relied upon by Labour Court while deciding the preliminary issue when applications Exh.19 and 35 were rejected by Labour Court. The petitioner, thereafter, also not led any oral evidence of inquiry officer for proving the original documents before the Labour Court.

6.2 Therefore, Labour Court has decided Exh.50 after considering the various

documents which are un-exhibited found to be not proved and come to conclusion that factum of inquiry is in dispute, not proved by petitioner and therefore, it was very difficult to decide the preliminary point on merits and therefore, Labour Court come to conclusion after appreciating and relying upon the decision of this Court (Coram : M.R. Shah, J.) in case of *Miranda Tools v. Jayesh M. Patel* in Special Civil Application No. 11858 of 2004 dated 18th August 2005. The Labour Court has relied upon the observations made by this Court in an identical case. The relevant observations made by this Court in aforesaid decision in Para 6/8 to 6/11, 7 to 10 which are quoted as under:

6.8. In the case of *Grindlays Bank Limited (Supra)*, the Honourable Supreme Court in para 7 and 8 has held as under;-

7. Sub-sections (1) of Section 11 of the Act, as substituted by Section 9 of the Industrial Disputes (Amendment & Miscellaneous Provisions) Act, 1956 is in these terms:

11.(1). Subject to any rules that may be made in this behalf, an Arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think fit.

The word "shall follow such procedure as the arbitrator or other authority may think fit" are of the widest amplitude and confer ample power upon the Tribunal and other authorities to devise such procedure as the justice of the case demands. Under cls.(a) to (c) of Sub-section (3) of Section 11, the Tribunal and other authorities have the same powers as are vested in civil Courts under the Code of Civil Procedure, 1908, of (a) enforcing the attendance of any person and examining him on oath (b) compelling the production of documents and material objects and (c) issuing commissions for the examination of witnesses. Under cl(d) thereof, the Tribunal or such other authorities have also the same powers as are vested in civil Courts under the Code of Civil Procedure, 1908 in respect of such other matters as may be prescribed. Although the Tribunal or other authorities specified in Section 11 are not Courts but they have the trappings of a Court, and they exercise quasi-judicial functions.

8. The object of giving such wide powers is to mitigate the rigour of the technicalities of the law, for achieving the object of effective investigation and settlement of industrial disputes, and thus assuming industrial peace and harmony. The discretion thus conferred on these authorities to determine the procedure as they may think fit, however, is subject to the rules made by the "appropriate Government" in this behalf. Part III of the Industrial Disputes (Central) Rules, 1957 makes rules in this behalf. Rules 9 to 30 are the relevant rules regulating procedure. State Government too have made their own corresponding rules. Except to the extent specified in Sub-section 3 of Section 11 of the Act and the rules framed thereunder, the provisions of the Code of Civil Procedure, 1908 are not applicable to proceedings before the authorities mentioned in Sub-section (1). The provisions of the Evidence act, in their strict

sense, likewise do not apply to proceedings before the authorities. Nevertheless, all these authorities being quasi-judicial in nature objectively determining matters referred to them, have to exercised their discretion in a judicial manner, without caprice, and according to the general principles of law and rules of natural justice.

6.9. The Division Bench of this Court in the case of M/s.Echjay Industries Pvt.Ltd. (Supra) in para 15 has held as under;-

15. We, therefore, sum-up our views as follows:

Production of the inquiry papers in the earlier proceedings u/s 33(2)(b) would not be sufficient to debar the Labour Court from calling upon the employer to produce his evidence in view of the powers conferred by Sections 10 and 11 of the Act as well as Rules 17, 26, 27 & 28 which are to be exercised for the purpose of investigation and settlement of Industrial Dispute as provided in the Preamble of the Act. The order of approval granted u/s 33(2)(b) does not conclude the question of legality of termination of employment. The Labour Court is not bound by the provisions of the CPC in view of the powers contained in the aforesaid statutory provisions and the abstract doctrine of burden of proof is not applicable, in adjudication of Industrial dispute as pointed out by the Supreme Court, particularly in view of the helpless and migratory character of the workmen. Even if it is assumed for the sake of arguments that issues have to be raised in view of the statement and written statement, the result would be that the order regarding closing the right of the workmen to lead evidence may have to be set aside and they may have to be given such right after directing the Labour Court to raise issues. Since the material evidence in the form of papers relating to inquiry are in possession of the employer, the Labour Court committed no error in calling upon the employer to produce such evidence. The state of making any observation or rendering any finding regarding award to be made by the Labour Court has not arisen at all, since the workmen also rely on the evidence in exclusive possession of the employer.

6.10. The Calcutta High Court in the case of Mitra A.B. (Supra) has held that when the Industrial Tribunal is called upon to decide the validity of the departmental inquiry as preliminary issue, the onus of proof such of validity is on employer who wants to rely on fairness and domestic inquiry in defence.

6.11. The learned Single Judge of this High Court dismissed the Special Civil Application No. 6231 of 1994 presented at the instance of the management, confirming the order passed by the Labour Court, by which in a case where the management has held inquiry ex-parte and the Labour Court held the departmental inquiry as illegal by observing that when there is an ex-parte inquiry, it is the duty of the management to prove the documents of departmental inquiry.

7. Now considering the facts on hand, the question which arises for consideration by this Court is whether the order passed by the Labour Court impugned in the

present petition, by which the Labour Court directed the management to prove documents produced vide List at Ex.13 and to prove the departmental inquiry at the first instance by the management by leading evidence is just, legal and proper or not and/or the same is required to be interfered with by this Court in exercise of the powers under Articles 226 and 227 of the Constitution of India.

8. It is the case on behalf of the workman that no inquiry has been held at all and the workman was not permitted to take part in the departmental inquiry and the documents which are produced by the management vide list at Ex.13 to show that in fact the departmental inquiry was held and the workman did not participate in the inquiry are, got-up and concocted documents. Thus, the existence of the departmental inquiry itself is questioned by the workman and therefore, by application Ex.11, the workman requested the Labour Court to direct the management to prove the documents produced by the management at List Ex.13 and to prove the factum of departmental inquiry, directing the management to lead evidence at the first instance. It is the contention on behalf of the workman that only after the factum of departmental inquiry alleged to have been held is proved by the management by leading evidences then and then only, the question of legality and validity of the departmental inquiry is required to be considered. Therefore, it is submitted that the Labour Court has not committed any error in directing the management to first lead evidence to prove the factum of departmental inquiry and to prove the documents produced by the management vide List Ex.13. To prove the factum of departmental inquiry, it is the case of the management that they have conducted the departmental inquiry, however, the workman did not participate in the inquiry and to support their contention that in fact departmental inquiry has been held, the management wanted to prove the same by producing documents vide List at Ex.13 and therefore, it is the case on behalf of the management that when the workman has raised an industrial dispute and is challenging the legality and validity of the departmental inquiry, the onus is upon the workman to prove the departmental inquiry is not legal and valid as it is he who alleges the departmental inquiry as illegal and/or not fair.

9. Considering the aforesaid facts on hand, the question is not with regard to the legality and validity of the departmental inquiry only, but the question is only with regard to factum of departmental inquiry and existence of the departmental inquiry. The management wanted to produce the documents vide List at Ex.13 to prove that in fact departmental inquiry was held, which is disputed by the workman and even the workman has objected to exhibiting those documents produced vide List Ex.13. Now, when the management emphasis that they have held the departmental inquiry against the workman and the workman did not participate in the inquiry, the onus is upon the management to first prove the factum of departmental inquiry by leading evidence at the first instance and to prove the documents produced by the management vide List Ex.13. Therefore, the contention raised on behalf of the management that by directing the management to lead evidence at the first instance to prove the documents

produced vide List Ex.13 and to prove the factum of departmental inquiry being held, the onus is wrongly shifted upon the management, has no substance. In the judgments cited at bar on behalf of the managements, the workman had challenged the legality and validity of the departmental inquiry and in none of the judgments, the dispute was with regard to the existence and factum of holding the departmental inquiry. In all the decisions, on which reliance has been placed on behalf of the management, the workman has challenged the legality and validity of the departmental inquiry and has challenged the order of dismissal by approaching the Labour Court / Industrial Court, and, therefore, the burden will be upon the workman to lead evidence at the first instance to prove how the departmental inquiry is not legal and valid, as he is alleging that the departmental inquiry is not legal and valid. However, as stated hereinabove, in the present case the dispute is not only with regard to the challenging the legality and validity of the departmental inquiry but the factum of departmental inquiry itself is questioned and/or disputed and therefore, it is for the management to first lead the evidence to prove that in fact the departmental inquiry was held but the workman did not participate in the departmental inquiry and after having proved that in fact departmental inquiry was held and the workman did not participate in the inquiry, the question of legality and validity of the said departmental inquiry is required to be considered thereafter. Under the aforesaid circumstances, it cannot be said that the impugned order passed by the Labour Court is in any way erroneous and/or contrary to the settled legal position. As held by the Honourable Supreme Court as well as by this Court, the provisions of Evidence Act and the Civil Procedure Code, 1908 with regard to burden of proof, are not applicable in strict sense. Apart from that, in the facts and circumstances, directing the management to first prove the documents produced vide List at Ex.13 by which the management wanted to establish the factum of departmental inquiry and to prove holding of the departmental inquiry by the management at the first instance by leading evidence, cannot be said to be illegal and/or contrary to the provisions of the Evidence Act, CPC and/or settled legal position and therefore, no interference is called for.

10. The contention on behalf of the petitioner management that by virtue of the impugned order, the Labour Court has directed the management to lead evidence at the first instance to prove the legality and validity of the departmental inquiry, is not correct and the same cannot be accepted. In fact, the workman objected to exhibit the documents produced by the management vide List at Ex.13 to prove the factum of holding the departmental inquiry and it was the contentions on behalf of the workman that as such no departmental inquiry is held and the documents produced by the management vide List at Ex.13 to show that the departmental inquiry was held but the workman did not participate in the departmental inquiry, are got-up and concocted documents. Under the circumstances, the contention on behalf of the management that the Labour Court has materially erred in shifting the onus upon the management to lead evidence at the first instance to prove the legality and validity of the

departmental inquiry, cannot be accepted under the aforesaid facts and circumstances.

7. The Labour Court has also considered the various decisions relied upon by petitioner in Para 14, but, all decisions are on facts which are distinguished by Labour Court and relied upon the decision of this Court as referred above. Therefore, Labour Court has come to conclusion that original documents of departmental inquiry which have been produced by petitioner along with xerox copy of departmental inquiry vide Exh.10 is not exhibited. Therefore, factum of inquiry is not proved by the petitioner and therefore, it is considered that the proceedings of departmental inquiry is illegal, unreasonable and improper. Therefore, according to my opinion, considering the cogent reasons given by Labour Court in detail after discussing the various decisions relied upon by petitioner and respondent workman and also after considering the submissions made by both the learned advocates appearing on behalf of respective parties, Labour Court has not committed any error which requires interference by this Court while exercising the power under Article 227 of the Constitution of India.

8. At this stage, it is necessary to note that how the delay is occurred in labour dispute and who is responsible for such delay. Why I am examining this issue, because, considering the date of dismissal of the workman 8th December 1994, the dispute was raised by respondent workman in the year 1995 being a Reference No. 370 of 1995, before that dismissal, workman was suspended during this ex-parte inquiry w.e.f. 19th February 1994. So, workman is out of job or without work since 19th February 1994. Today, we are in the month of March-2008. There are more than 13 years over only on the preliminary issue because of technical and legal contentions raised by both the parties which has been decided by Labour Court on 27th April 2007. Therefore, a reference against dismissal remained pending only on preliminary issue upto 13 years without any progress in adjudication proceedings. Still, Labour Court has to examine the merits of the matter and thereafter, award will be passed on merits which may challenge either party to higher forum again, therefore, we are not in a position to say that when it will meet the end of justice, only God knows. Therefore, in such dismissal matter or termination matter, on the basis of departmental inquiry cannot be delayed further. The Apex Court has considered such delay aspect and worry about delay at the instance of employer challenging preliminary point to the higher forum and stall the further proceedings before the Labour Court. The Apex Court has expressed the view in case of *The Cooper Engineering Limited Vs. Shri P.P. Mundhe*, The Apex Court has observed that there will be no justification for any party to stall the final adjudication of the dispute by the Labour Court by questioning its decision with regard to the preliminary issue when the matter if worthy can be agitated even after the final award. It will be also legitimate for the High Court to refuse, to intervene at that stage. The Apex Court after considering the various decisions of Apex Court, has observed in Para 21 and 22 which are quoted as under:

21. Propositions (4), (6) and (7) set out above are well recognized. Is it, however, fair and in accordance with the principles of natural justice for the Labour Court to withhold its decision on a jurisdictional point at the appropriate stage and visit a party with evil consequences of a default on its part in not asking the Court to give an opportunity to adduce additional evidence at the commencement of the proceedings or at any rate in advance of the pronouncement of the order in that behalf? In our considered opinion it will be most unnatural and unpractical to expect a party to take a definite stand when a decision of a jurisdictional fact has first to be reached by the Labour Court prior to embarking upon an enquiry to decide the dispute on its merits. The reference involves determination of the larger issue of discharge or dismissal and not merely whether a correct procedure had been followed by the management before passing the order of dismissal. Besides even if the order of dismissal is set aside on the ground of defect of enquiry a second enquiry after reinstatement is not ruled out nor in all probability a second reference. Where will this lead to? This is neither going to achieve the paramount object of the Act, namely industrial peace since the award in that case will not lead to a settlement, of the dispute. The dispute being eclipsed pro tempore as a result of such an award will be revived and industrial peace will again be reaptured. Again, another object of expeditions disposal of an industrial dispute (see Section 15) will be clearly defeated resulting in duplication of proceedings. This position has to be avoided in the interest of labour as well as of the employer and in furtherance of the ultimate aim of the Act to foster industrial peace.

22. We are, therefore, clearly of opinion that when a case of dismissal or discharge of an employee is referred for industrial adjudication the Labour Court should first decide as a preliminary issue whether the domestic enquiry has violated the principles of natural justice. When there is no domestic enquiry or defective enquiry is admitted by the employer there will be no difficulty. But when the matter is in controversy between the parties that question must be decided as a preliminary issue. On that decision being pronounced it will be for the management to decide whether it will adduce any evidence before the Labour Court. If it chooses not to adduce any evidence it will not be thereafter permissible in any proceeding to raise the issue. We should also make it clear that there will be no justification for any party to stall the final adjudication of the dispute by the Labor Court by questioning its decision with regard to the preliminary issue when the matter if worthy can be agitated even after the final award. It will be also legitimate for the High Court to refuse to intervene at this stage. We are making these observations in our anxiety that there is no undue delay in industrial adjudication.

9. In view of this, considering the view observed by Apex Court just to highlight the delay occurred in the present case when 14 years have been passed and still, matter is at the stage of preliminary issue and not finally decided by Labour Court, how can employer drag the workman in a long litigation, for which, workman may not be able to give legal fight to the employer upto higher forum

for such a long time. Ultimately, the situation arise which can be created by the employer that workman must have to surrender to the terms of employer because of prolonged litigation upto higher forum only on preliminary issue.

10. I have considered the contentions raised by both the learned advocates and also considered the affidavit-in-reply filed by respondent workman. I have considered, in detail, the reasoning given by Labour Court while deciding the preliminary issue in favour of respondent and factum of inquiry was not proved by the petitioner. That fact remained as it is, because, documents of inquiry papers are not exhibited before the Labour Court. Therefore, according to my opinion, Labour Court has not committed any error while deciding this issue and Labour Court has rightly examined the issue. This Court is having very limited jurisdiction while considering the interim order on preliminary issue passed by Labour Court while exercising the power under Article 227 of the Constitution of India. This Court cannot act as an appellate authority and even in case when two views are possible, interference by this Court is uncalled for.

11. Therefore, there is no substance in the present petition. Accordingly, present petition is dismissed with no order as to costs. Notice shall stand discharged. Interim relief, if any, shall stand vacated.