
(2016) 08 SHI CK 0015
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 7931 of 2010

The H.P. State Forest Development Corp. APPELLANT
Vs
Rosin RESPONDENT

Date of Decision : 05-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) LIC 520 : (2016) 3 LLN 657

Hon'ble Judges : Mr. Sandeep Sharma, J.

Bench : Single Bench

Advocate : Mr. Prany Partap Singh, Advocate, for the Petitioners; Mr. Nimish Gupta, Advocate, for the Respondents No. 1

Final Decision : Dismissed

Judgement

Sandeep Sharma, J.—Petitioner being aggrieved with the award dated 27.07.2010 passed by Industrial Tribunal-cum-Labour Court, Shimla, camp at Nahan in Reference No. 213 of 2002, has approached this Court by way of instant petition filed under Article 226 of Constitution of India, praying therein for following main relief:-

"(a) That the award of the learned H.P. Industrial Tribunal-cum-Labour Court, Shimla in Ref. No. 213 of 2002 in the reference titled The General Secretary, Mazdoor Union Sharmik Sanghthan Biroja Factory, Nahan, District Sirmaour, H.P. v. The General Manager, Rosin & Turpentine Factory, Nahan, District Sirmaur, H.P. be quashed and set aside."

2. Briefly stated facts as emerged from the record are that Rosin & Turpentine Factory Employees Union through its General Secretary, District Sirmaur (here-in-after to be referred as "Respondent-Union") have been demanding remote locality/special compensatory allowance at par with the Central Government employees serving in/at different places in the State of Himachal Pradesh like the employees of the Telephone Department, MES and Nahan Foundry etc. Since H.P.

Forest Corporation did not concede to the demand of the Respondent-Union, dispute arose between Respondent- Union as well as petitioner and ultimately reference was made to the Industrial Tribunal-cum-Labour Court, Shimla. Reference for adjudication sent by the appropriate Government to the Industrial Tribunal-cum-Labour Court is as under:-

"Whether the workmen of Rosin & Turpentine Factory, Nahan are entitled to the compensatory allowance w.e.f. 1.10.1985 as given by the Central Government to its employee? If yes, from which date such allowance is admissible to workmen of above Factory?"

"If not, then whether the workmen of above factory are entitled to the compensatory allowance as given by the H.P. Government to its clerical staff? If so, from which date such allowance is admissible?"

"If not, then what type of compensatory allowance the above workmen are entitled to and from which date?"

3. Pursuant to aforesaid reference having been made to the Industrial Tribunal-cum-Labour Court, Shimla, Respondent-Union filed statement of claim stating therein that in Rosin & Turpentine Factory at Nahan (here-in-after to be referred as "Factory") there are two types of establishments (1) Ministerial establishment governed by the pay and allowances of the Himachal Pradesh Government ; (2) Industrial establishment comprising of the industrial workers in the manufacturing process and governed by the central pattern of pay scales and other allowances. Respondent-Union also stated in their claim petition that as far as members of the respondent-Union are concerned they fall in the second category i.e. industrial establishment. Respondent-Union also averred in their claim that the Government of India granted locality/special compensatory allowance to the Central Government Employees posted at Shimla and its suburbs @ Rs. 75/- per month (minimum) and Rs. 300/- (maximum) as per pay range of the employees w.e.f. 1.10.1985 and the said allowance was increased to Rs. 150/- per month (minimum) and Rs. 650/- maximum w.e.f. 1.1.1986 on the revision of the pay scales of the Central Government employees. It also emerges from the claim petition that Central Government employees posted at Kasuali had challenged the notification of the Central Government before Central Administrative Tribunal (hereinafter referred to as "CAT") on the ground that same was violative of Article 14 of the Constitution of India because the grant of such benefit only to the employees posted at Shimla is discriminatory and in violation of 14 of the Constitution of India. CAT allowed the aforesaid petition filed by Central Government Employees of Kasauli, as a result of which, Central Government Employees posted at various places in H.P. also claimed the said benefits and they were granted the benefits w.e.f. 1.10.1985. Respondent-Union also stated that employees posted at Nahan also claimed the said benefit and they were also allowed the same. Similarly, other employees posted in telephone department as well as civilians posted at the Army Headquarters were also granted these benefits.

4. It is also averred in the claim petition that even the Nahan Foundry employees, who were about 400 in number were also granted these benefits on having approached the Administrative Tribunal. It is also averred that the Nahan Foundry employees were also governed by the same terms and conditions as employees of the Factory, at Nahan were also governed by the Central Government patterns of the pay scales and allowances before their services were taken over by the HPPWD & IPH Departments. Respondent-Union also claimed that ministerial establishment of the Factory has also got compensatory allowance at par with the H.P. Government employees w.e.f. 1967 but the same has been denied to the workers of factory establishment on the ground that they were governed by the Central Government pattern of pay scales & allowances. In the aforesaid background, respondent-Union claimed that aforesaid discrimination amounts to unfair labour practise and employees serving in the same establishment cannot be discriminated on the ground of different establishments. Respondent-Union claimed that when the special compensatory allowance was granted to the other Central Government Employees posted at Nahan, they also approached the management for the grant of the same but nothing was done and ultimately they approached Administrative Tribunal by way of filing an O.A., which was sent to Managing Director as a representation of the petitioner. But Managing Director failed to accept the request of the respondent-Union and as such Union was to approach learned Industrial Tribunal-cum-Labour Court by filing application under Section 33-C(2) of the Industrial Disputes Act, 1947, but the same was dismissed on the ground that matter could have been agitated by way of dispute. Accordingly, respondent-Union further claimed that since member of Union are also governed by Central pattern of pay scales and other allowances, they cannot be denied the said benefits but they are entitled to the benefits of special compensatory allowance at par with the Central Government employees posted at Nahan w.e.f. 1.10.1985. Petitioner also claimed that in the application filed under Section 33-C(2), General Manager had admitted that the Factory establishment is also governed by the central pattern of pay scales and other allowances at par with the other Central Government Employees. In the aforesaid background, respondent-Union requested the management to pay remote locality/special compensatory allowance to the members of the petitioner at par with other Central Government employees w.e.f. 1.10.1985 @ Rs.75/- to Rs.300/- per month upto 31.12.1985 as per their pay ranges and Rs. 150/- to Rs. 650/- w.e.f. 1.1.1996 with all consequential benefits.

5. Present petitioner by way of detailed reply refuted the claim of the respondent-Union on the ground of maintainability, cause of action and that the members of the Union are not workmen as per the Act. Similarly, on merits, respondent-department claimed that employees of the Factory are not at par with the Central Government employees because they are governed by the pay scale pattern, at par with the Ministry of Railways as per Clause 32 of the Standing Order. Respondent also averred that ministerial staff working in the factory is governed

by the pay scale of the H.P. Government and compensatory allowance, as given by the H.P. government, is also being given to them. Respondent further stated that since the Factory workers are on the pattern of Railway workshop for the purpose of pay/allowances, compensatory allowance cannot be given to them. Respondent further stated that as far as special compensatory allowance is concerned, the same is not admissible to the employees of workshop staff. As per respondent, Ministry of Finance, Department of Expenditure, Government of India had issued notification dated 31.5.1991 for the grant of special compensatory (remote locality) allowance to only the Central Government employees posted in H.P. within the various pay ranges and as such workers of factory are drawing remote locality allowance w.e.f. May, 1991 and revised rates from 1.8.1997. As per respondent, all the benefits in terms of notification are meant for Central Government Employees, whereas members of respondent-Union are employees of State Forest Corporation, drawing pay and allowances on the pattern of Railway Workshop and as such no allowance, as being claimed by them, can be granted to them. Industrial Tribunal-cum-Labour Court on the basis of pleadings framed following issues:-

"1. Whether the workmen are entitled to the compensatory allowance as given by the Central Government to its employees or at par with State Government clerical staff or any other type of compensatory allowance? OPP.....

2. If yes, from which date and to what amount the workmen are entitled? OPP....

3. Whether the claim of the petitioners is not maintainable in view of objections raised from para 1 to 4 of preliminary objections? OPP..."

6. Learned Tribunal on the basis of oral as well as documentary evidence adduced on record, allowed the claim of the petitioner and directed the Corporation to grant special compensatory allowance to members of the union with its revision from time to time on the pattern of Central Government Employees, as per their respective pay scales w.e.f. 1.10.1985.

7. Feeling aggrieved and dis-satisfied with the award dated 27.7.2010 passed by Industrial Tribunal, present petitioner approached this Court by way of instant writ petition praying therein relief as has been reproduced here-in-above.

8. Shri Pranay Partap Singh, counsel representing the petitioner vehemently argued that the impugned award passed by Industrial Tribunal-cum-Labour Court, Shimla is not sustainable as the same is based upon the mis-appreciation of the evidence adduced on record completely ignoring the statements as well as documentary evidence placed on record by the Department. It is also contended on behalf of petitioner that members of Union had been getting special compensatory allowance at old rates previously because of bona-fide mistake on the part of the petitioners and as such they were paid un-authorisedly and learned Tribunal failed to acknowledge that it has come in evidence that earlier special compensatory allowance/remote locality allowance was paid due to bona-fide mistake.

9. With a view to substantiate his arguments that impugned award is not based upon the correct appreciation of the evidence adduced on record by the Department, Mr. Pranay Partap Singh, counsel representing the petitioner made this Court to travel through the statements of RW1 Swaran Singh, General Manager of Petitioner No. 2, wherein he categorically stated that special compensatory/remote locality allowance was paid to the respondent-Union by bona-fide mistake, un-authorisedly at local level. Mr. Pranay Partap Singh also contended that Industrial Tribunal has fallen in grave error in not acknowledging the fact that petitioner No. 2 is bound by Standing Order of the Factory. As far as service conditions are concerned, in Clause 32(a), it has been provided that pay and allowances of labour and supervisory staff would be as per orders of Ministry of Railway issued for their workshop staff from time to time. The aforesaid counsel also invited the attention of this Court to Ex. RB, wherein clarification was given by the Railway workshop Jagadhari wherein, it has been stated that no compensatory allowance was being paid to its employees. He also contended that nearest workshop Jagadhari does not pay any special compensatory allowance/remote locality allowance to its employees and this clarification was on record before the learned Tribunal in the shape of Ex. RB and in the aforesaid background, he prayed for quashing of impugned award.

10. It clearly emerges from the record that there are two types of establishments in factory i.e. Ministerial establishment and Industrial establishment. Ministerial establishment is governed by the pay and allowances of the Himachal Pradesh Government and Industrial establishment comprising of the industrial workers in the manufacturing process are governed by the central pattern of pay scales and other allowances. As per petitioner, they are governed by pay scale pattern at par with the Ministry of Railway. Petitioner has also stated that factory workers are governed by the pay scale pattern at par with the Ministry of Railway and as far as the grant of special compensatory allowance is concerned, factory workers are not entitled for the grant of special compensatory allowance. And as such members of respondent-Union cannot be granted special compensatory allowance as the same is not admissible as per the pay-scale pattern of Ministry of Railway. PW1 Shashi Kant Kalia specifically stated before the learned Tribunal that employees of factory were being paid remote allowances on the Central Government pattern @ Rs. 20/- per month (minimum) and Rs. 60 (maximum) as per the pay range of the employees but now they are claiming this allowance w.e.f. 1.10.1985 on the Central Government pattern as is being paid to the Central Government employees of the various departments such as MES, P&T, Army Station Headquarters etc. Aforesaid PW1 also placed on record Ex. PW1/A, Ex. PW1/B & Ex. PW-1/C, copies of notification issued by the Central Government as well as orders passed by Central Administrative Tribunal, in the case of Central Government employees posted at Nahan Foundry, wherein their claim for allowance at par with the Central Government employees was allowed. PW1 also stated that in terms of order passed by Central Administrative Tribunal, Union made representation to the management, who asked them to produce

documents whereby Central Government employees posted at Nahan were granted the revised rates of the said allowances. PW1 further stated that relevant documents were supplied but nothing was done by the management. He also placed on record representation Ex. PW1/D, wherein, it is stated that Nahan Foundry, the Jagadhri Railway workshop pattern was applicable and employees of said Foundry were also granted the said allowances w.e.f. 1.10.1985 at the revised rates. The Rules & Regulations in respect of Nahan Foundry Employees are the same as applicable to the members of the petitioner. PW1 also stated that Ministerial staff, serving in the same premises is getting compensatory allowance w.e.f. 1970 @ Rs.150/- per month (minimum) and maximum as per their pay range. PW1 also stated that in the earlier application filed under Section 33-C(2) of the Act, General Manager admitted that members of the petitioner are governed by the Central Government pay pattern and allowances. Similarly, PW2 Shri Saleem Ahmed, General Secretary of Nahan Foundry stated that they had claimed remote locality allowance/compensatory allowance w.e.f. 1.10.1985, on the ground that they are governed by Central Government pattern pay-scale and allowances and the same was paid to them @ Rs. 150/- per month (minimum) and Rs. 650/- (maximum) as per pay range. He also stated that in the matter of pay and allowances they had similarity with the employees of the Factory since both were governed by the Jagadhri workshop pattern/central pattern of pay and allowances.

11. PW3 Shri Mohinder Singh, a Central Government Employee stated that vide notification dated 31.05.1991, they were paid the remote locality/compensatory allowance @ Rs.20/- to Rs.120/- per month as per their entitlement of pay. He has also stated that for getting the revised benefits, they filed an Original Application before Central Administrative Tribunal, titled Sumer Chand & others. v. Union of India and vide Ex.PW1/C, CAT issued directions to the Department to revise the allowance at par with the Central Government Employees posted at Shimla and paid revised arrears of allowances w.e.f.1.10.1985.

12. PW4 Shri Balbir Singh, General Secretary of Mazdoor Union, Resin & Turpentine Factory, Nahan stated that members of Union were getting remote locality/compensatory allowance since. 1.1.1986 but till date same has not been revised. He also stated that Central Government Employees are getting revised rates w.e.f. 1.1.1986 @ Rs. 150/- to Rs. 650/- as per their pay-scale. Similarly, revised rates were being paid to the employees of MES, Post Office, Army station Headquarter, Telecom and also Nahan foundry Employees. In cross-examination, he denied that they are the employees of the State Government undertaking and as such they are not entitled to remote locality allowance @ Rs.20-40-60 but specifically vide notification dated 6.11.1985 they demanded the rates at par with the allowance paid to the employees posted at Shimla. PW4 further stated that since they were not given the revised rates of allowances, Union filed OA before the CAT and the same was allowed vide Ex.PW2/A and, since then, they are getting the allowance at par with the Shimla employees ranging between 150-650 per months w.e.f. 1.10.1986.

13. Conjoint reading of the aforesaid evidence led on record by respondent-Union clearly suggests that they have been able to prove on record by leading cogent and convincing evidence that they are governed by the Central Government pay pattern and allowances and have been getting remote locality/compensatory allowances on Central Government pattern @ Rs. 20/- (minimum) and Rs.60/- (maximum) as per pay range of the employees and they had been demanding the aforesaid allowances w.e.f. 1.10.1985 on Central Government patterns as being paid to the Central Government employees of the various departments in terms of notification Ex.PW1/A as well as various directions issued by CAT in this regard. All the aforesaid witnesses led on record by the respondent-Union have categorically stated that earlier they were being paid remote locality/compensatory allowance @ Rs.20/- to 120/- per month as per their entitlement but subsequently on the basis of notification issued by Government of India dated 3.5.1991 for grant of special compensatory allowance as well as the directions passed by CAT in the Original Application filed by various Central Government Employees, they have been getting revised rates w.e.f. 1.1.1986 @ Rs.150 to Rs. 650/- as per their pay scale.

14. Careful perusal of the aforesaid statements as well as documents available on record clearly suggests that w.e.f 1.1.1986 revised rates are being paid to the employees of MES, Post Office, Army Station Head Quarter, Telecom and also Nahan Foundry employees. RW1 Shri Swaran Singh, General Manager of the Factory also stated that the workers of the Factory are governed by the pay-scale of Railway workshop staff and that the members of the Union were appointed as per conditions shown in Ex. RA & Ex. RB. As per aforesaid RW1 Shri Swaran Singh, benefits of remote locality allowance was not extended by the Railway to its workshop staff as per Ex. RB and as such members of the Union are also not entitled for the same since their service conditions are also governed in terms of Ex. RA and Ex.RB.

15. RW1 also stated that since there was no instruction to pay this allowance, to the members of petitioner, by any competent authority, earlier this allowance was being paid un-authorisedly at the local level. He also admitted in his cross examination that audit is conducted every year and report is furnished to the Headquarter. He also admitted that remote locality/special compensatory allowance is being paid to the employees serving in Himachal Pradesh.

16. It is undisputed as clearly emerge from the statements given by PWs that members of respondent-Union were getting compensatory allowance/remote locality allowance on old rates @ Rs. 20/- (minimum) and Rs. 60/- (maximum) per month as per their pay-scale and they have been claiming revised rate w.e.f. 1.1.1986 @ Rs.150/- to Rs.650/- as per their pay scale in terms of notification issued by Central Government as well as orders passed by CAT in the cases filed by the employees of MES, Post Office, Army Station Headquarters, Telecom and Nahan Foundry employees. Similarly, RW1 Also admitted that aforesaid allowance is being paid to the employees of the factory, however, he stated that

same was being paid un-authorisedly at local level and, as such, steps were taken to stop the same. However, perusal of the statement given by RW1 clearly suggests that he was unable to offer plausible explanation that under what authority compensatory/remote locality allowance was being paid to the employees of the factory un-authorisedly and when the same was pointed out to the authorities by the audit authorities. In his cross-examination, he admitted that audit is conducted every year and report is furnished to headquarter but in this regard, apart from the oral statement, nothing was placed on record by the RW1 to substantiate that on being pointed out by the audit authorities, steps were taken to correct the mistake, which was committed by the Department, by un-authorisedly paying allowance in question to the members of the respondent-Union. Whereas, respondent- Union has been successful in demonstrating that they are also entitled to enhancement in the allowance in terms of revision made by the Central Government. It also stands proved on record that as per revision made by Central Government employees posted at Nahan are getting revised compensatory allowance w.e.f. 1.10.1985 on the Central Government pay scale pattern. It has also come in the statement of PW3 that remote locality/compensatory allowance is being paid to the employees of Nahan Foundry w.e.f. 1.10.1985. It has also come in the statement of aforesaid witness that there is similarity between the employees of Nahan Foundry and that of the Rosin & Turpentine Factory Employees, who were also governed by Jagadhri workshop pattern/central pattern of pay allowances.

17. In this background, if the statement of RW1 is seen, who has categorically stated that workers of the factory are governed by the pay scale of Railway workshop staff and members of respondent-Union were appointed as per conditions shown in Ex.RA and Ex.RB, it clearly emerges that there is force in the contention put-forth on behalf of the members of the Union that they are also entitled to remote/compensatory allowance in terms of revised notification issued by Central Government, whereby all the Central Government Employees posted at Nahan are getting revised compensatory allowance w.e.f. 1.10.1985 on the Central Government pattern pay scale. Respondent-Union by leading cogent and convincing evidence has proved on record that employees of Nahan Foundry are being paid revised remote locality/compensatory allowance on revised rates w.e.f. 1.10.1985, hence, members of respondent-Union are also entitled to remote locality/compensatory allowance at revised rates w.e.f. 1.10.1985 as is being paid to employees of Nahan Foundry, who are also governed by Jagadhri workshop pattern/central pattern of pay allowance. Similarly, PW2 also stated that employees of Nahan Foundry are also governed by Jagadhri workshop pattern and they are being paid remote locality/compensatory allowance w.e.f. 1.10.1985. Aforesaid statements of PW2 and PW3 have been further supported by the statement of Shri Shashi Kant Kalia, who has specifically stated that employees of Nahan Foundry are governed by Jagadhri workshop and are getting remote locality/compensatory allowance w.e.f. 1.10.1985 at the revised rates. Moreover as has been discussed above, RW1 Swaran Singh categorically stated

that members of the respondent-Union are governed by Railway workshop staff in terms of Ex. RB and they are not entitled to remote locality/special compensatory allowance. But aforesaid contention put-forth on behalf of RW1 cannot be accepted solely for the reason that employees of Nahan Foundry who were governed by Jagadhri workshop pattern/central pattern as applied to the central establishment of factory are getting special compensatory allowance w.e.f. 1.10.1985 at the revised rate and as such there is no justification, if any, to deny the aforesaid benefit to the members of the respondent-Union, who were admittedly governed by the Railway workshop staff pattern. Moreover, learned Tribunal has rightly observed that since the ministerial staff working in the factory is paid compensatory allowance as per the pay scale of H.P. Government, members of respondent-Union cannot be denied the payment of such allowance on the ground that they were governed by Jagadhri workshop pattern. Hence, this Court sees no illegality and infirmity in the findings of the learned Tribunal that all the Central Government employees working at Nahan Foundry are being granted compensatory allowance on revised rate w.e.f. 1.10.1985 and as such members of respondent-Union cannot be discriminated as far as entitlement of revised special compensatory allowance as per Central Government pattern.

18. After careful perusal of the evidence led on record by the members of respondent-Union, this Court sees no illegality and infirmity in the impugned award passed by the learned Tribunal, which appears to be based upon the correct appreciation of the evidence on record. In the present case, respondent-Union has been successful to prove on record that they are entitled for payment of special compensatory allowance with revised rates w.e.f. 1.10.1985 as being paid to the Central Government employees as per Central Government pattern. Whereas, petitioner department has not been able to demonstrate that how members of respondent-Union are not entitled to special compensatory allowance w.e.f. 1.10.1985 on the revised rates when admittedly they are governed by the pay-scale of Railway workshop staff and the employees at Nahan Foundry who have been getting remote locality/compensatory allowance on revised rates w.e.f. 1.10.1985. Hence, this Court sees no illegality and infirmity in the award passed by the learned Tribunal, which is based on correct appreciation of the document available on record.

19. Apart from above, findings of fact recorded by learned Tribunal below on the basis of appreciation of evidence cannot be questioned in writ proceedings and writ court cannot act as an appellate court. In this regard, reliance is placed upon the judgement passed by Hon^{ble} Apex Court in case titled Bhuvnesh Kumar Dwivedi v. M/s. Hindalco Industries Ltd., 2014 AIR SCW 3157. It is profitable to reproduce paras 16, 17 and 18 of the judgement herein:

"16. ???The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior Courts or

tribunals: these are cases where orders are passed by inferior Courts or Tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an Appellate Court. This limitation necessarily means that findings of fact reached by the inferior court or Tribunal as result of the appreciation of evidence cannot be reopened for questioning in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised.

17. The judgments mentioned above can be read with the judgement of this Court in Harjinder Singh's case (supra), the relevant paragraph of which reads as under:

21. Before concluding, we consider it necessary to observe that while exercising jurisdiction under Articles 226 and/or 227 of the Constitution in matters like the present one, the High Courts are duty bound to keep in mind that the Industrial Disputes Act and other similar legislative instruments are social welfare legislations and the same are required to be interpreted keeping in view the goals set out in the Preamble of the Constitution and the provisions contained in Part IV thereof in general and Articles 38, 39(a) to (e), 43 and 43-A in particular, which mandate that the State should secure a social order for the promotion of welfare of the people, ensure equality between men and women and equitable distribution of material resources of the community to subserve the common good and also ensure that the workers get their dues. More than 41 years ago, Gajendragadkar, J. opined that:

10?. The concept of social and economic justice is a living concept of revolutionary import ; it gives sustenance to the rule of law and meaning and significance to the ideal of welfare State.

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."

[Emphasis added]

20. The Division Bench of this High Court while deciding batch of writ petition, CWP No. 4622 of 2013, titled as M/s. Himachal Futuristic Communications Ltd. v. State of H.P. and another also held that question of fact determined by the Tribunal cannot be made subject matter of writ petition.

21. Reliance is also placed on judgement rendered by Hon?ble Apex Court titled Ishwarlal Mohanlal Tshakkar v. Paschim Gujarat Vij Company Ltd. And another. It is profitable to reproduce para 9 of the judgement herein:

"9. We find the judgement and award of the Labour Court well reasoned and based on facts and evidence on record. The High Court has erred in its exercise of power under Article 227 of the Constitution of India to annul the findings of the Labour Court in its Award as it is well settled law that the High Court cannot exercise its power under Article 227 of the Constitution as an Appellate Court or re appreciate evidence and record its findings on the contentious points. Only if there is a serious error of law or the findings recorded suffer from error apparent on record, can the High Court quash the order of a lower Court. The Labour Court in the present case has satisfactorily exercised its original jurisdiction and properly appreciated the facts and legal evidence on record and given a well reasoned order and answered the points of dispute in favour of the appellant. The High Court had no reason to interfere with the same as the Award of the Labour Court was based on sound and cogent reasoning, which has served the ends of justice."

22. Consequently, in view of detailed discussion as well as laws referred here-in-above, this Court sees no reason to interfere in well reasoned award passed by learned Industrial Tribunal-cum-Labour Court and as such present petition is dismissed being devoid of merit.