Government was not brought to the notice of the Court and, therefore, such judgment does not lay down correct law to that extent.

(23) Therefore, after amendment in the Punjab Municipal Act, 1911 and the Punjab Municipal Corporation Act, 1976 vide Punjab Act No.11 of 1994 and Punjab Act No.12 of 1994, the election to the office bearers of the Municipalities including the Corporations does not provide for the remedy of election petition.

(24) In view of the questions of law having been answered, the matter be placed before the Bench as per roster.

Angel Sharma

Before Rajiv Narain Raina, J.

THE PRINCIPAL, GOVERNMENT GIRLS SR. SECONDARY SCHOOL, KALANAUR (ROHTAK)—*Petitioner*

versus

SAVITRI DEVI AND OTHERS—*Respondents*

CWP No. 17425 of 2012
October 30, 2015

Constitution of India, 1950—Art. 14 and 226—Scope of interference in exercise of writ jurisdiction in the award of Labour Court is limited—If no fundamental flaw or error apparent on the face of the record or of jurisdiction is shown in the award of reinstatement with 50% back wages, which is otherwise just and proper exercise of jurisdiction vested in the Labour Court, and findings were arrived at after appreciating evidence and material on record and no infirmity is seen therein, same cannot be interfered in exercise of supervisory jurisdiction under Article 226 of the Constitution.

Held that no fundamental flaw or error apparent on the face of the record or of jurisdicition has been pointed out by Mr. Goyal, learned Assistant Advocate General, Haryana, appearing for the petitioner-School. The Labour Court, Rohtak, has awarded reinstatement with continuity of service and 50% back wages, which is just and proper exercise of jurisdiction vested in the Labour Court. Findings have been arrived at after appreciating evidence and material on record and no infirmity is seen present in those findings emanating from overlooking of reading text or documents on file. The scope of interference under supervisory jurisdiction provided by Article 226 of

the Constitution of India while examining the awards of the Tribunals is not plenary or appellate but is limited to the principles involved which are indicated in Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale, AIR 1960 SC 137 : (1960) 1 SCR 890, the Supreme Court in a case arising from the Bombay Revenue Tribunal applied its past dicta and relying on a observations of Chagla, CJ. in Batuk K. Vyas v. Surat Municipality, AIR 1933 Bombay 133 delivered in the Bombay High Court.

(Para 2)

Further held that, in the result the writ fails and is dismissed as there is found no merit in it which warrants interference on principles enunciated in binding precedents noticed supra since the impugned award suffers from none of the vices which might vitiate it. The interim order regarding Section 17-B of the ID Act shall stand vacated. The petitioner will revert to her original position on the date of illegal and void termination caused by breach of law in the Industrial Disputes Act, 1947. Now the award of reinstatement etc. be implemented without delay and compliance report submitted within two months for the perusal of the Court.

(Para 5)

Gaurav Goyal, AAG, Haryana,
for the petitioner.

Sandeep Singal, Advocate,
for respondent No.1.

RAJIV NARAIN RAINA, J. (Oral)

(1) Heard the learned counsel for the parties at length.

(2) No fundamental flaw or error apparent on the face of the record or of jurisdicition has been pointed out by Mr. Goyal, learned Assistant Advocate General, Haryana, appearing for the petitioner-School. The Labour Court, Rohtak, has awarded reinstatement with continuity of service and 50% back wages, which is just and proper exercise of jurisdiction vested in the Labour Court. Findings have been arrived at after appreciating evidence and material on record and no infirmity is seen present in those findings emanating from overlooking of reading text or documents on file. The scope of interference under supervisory jurisdiction provided by Article 226 of the Constitution of India while examining the awards of the Tribunals is not plenary or appellate but is limited to the principles involved which are indicated in

Satyanarayan Laxminarayan Hegde *versus* ***Mallikarjun Bhavanappa Tirumale***[1], the Supreme Court in a case arising from the Bombay Revenue Tribunal applied its past dicta and relying on a observations of Chagla, CJ. in ***Batuk K. Vyas*** *versus* ***Surat Municipality***[2] delivered in the Bombay High Court, held as follows:-

> "6. The character and scope of writs of certiorari haave been dealt with by this Court in some detail in its decision ***Hari Vishnu Kamath v. Syed Ahmed Ishaque*** AIR 1960 SC 137=(1960) 1 SCR 890. After referring to certain earlier decisions of this Court cited therein this Court observed at P. 1121:-
>
> > "On these authorities, the following propositions may be taken as established: (1) Certiorari will be issued for correcting errors of jurisdiction, as and when an inferior Court or Tribunal acts without jurisdiction or in excess of it, or fails to exercise it. (2) Certiorari will also be issued when the Court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice. (3) The Court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or Tribunal, even if they be erroneous. This is on the principle that a Court which has jurisdiction over a subject-matter has jurisdiction to decide wrong as well as right, and when the Legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy, if a superior Court were to re-hear the case on the evidence, and substitute its own findings in certiorari. These propositions are well-settled and are not in dispute."
>
> 7. Besides the above three propositions, a fourth proposition as to which there appears to have been some controversy, was also discussed, namely, whether certiorari can be issued when the decision of the inferior Court or Tribunal is

[1] AIR 1960 SC 137 : (1960) 1 SCR 890

[2] AIR 1933 Bombay 133

erroneous in law. After referring to certain reported decisions, English as well as Indian, the position was thus summarized by this Court at p. 1123 as follows:

"It may therefore be taken as settled that a writ of certiorari could be issued to correct an error of law. But it is essential that it should be something more than a mere error; it must be one which must manifest on the face of the record. The real difficulty with reference to this matter, however, is not so much in the statement of the principle as in its application to the facts of a particular case. When does an error cease to be mere error, and become an error apparent on the face of the record? Learned Counsel on either side were unable to suggest any clear-cut rule by which the boundary between the two classes of errors could be demarcated. Mr Pathak for the first respondent contended on the strength of certain observations of Chagla, C.J., in Batuk K. Vyas v. Surat Municipality AIR 1933 Bom 133, that no error could be said to be apparent on the face of the record if it was not self-evident, and if it required an examination or argument to establish it. This test might afford a satisfactory basis for decision in the majority of cases. But there must be cases in which even this test might break down, because judicial opinions also differ, and an error that might be considered by one Judge as self-evident might not be so considered by another. The fact is that what is an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case." [emphasis added]

(3) The principles of interference were further explained in the Constitution Bench authority in ***Syed Yakoob*** versus ***K.S. Radhakrishnan***[3] arising from an order passed by the State Transport Appellate Tribunal refining the principles involved in certiorari jurisdiction of the High Courts in the work of Tribunals, Gajendragadkar, holding:-

"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

[3] AIR 1964 SC 477

> tribunals without jurisdiction, or in excess of it, or as a result of failure to exercise jurisdictions. 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 a result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which 4 of 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 Art. 226 to issue a writ of certiorari can be legitimately exercised"

(4) With the ground work explicitly clarified in the above binding precedents restricting interference in Art. 226 of the Constitution to as explained, Mr. Goyal fairly submits on instructions

from the Principal of the petitioner, a Government school present in Court that the post of Water Carrier in the interregnum was occupied by one Soma Devi, who was a regular hand and retired from service in November, 2014 on reaching the age of superannuation, which makes it a lot easier for the award to be satisfied since work is available and required in the school and the vacancy has not been filled so far.

(5) In the result the writ fails and is dismissed as there is found no merit in it which warrants interference on principles enunciated in binding precedents noticed supra since the impugned award suffers from none of the vices which might vitiate it. The interim order regarding Section 17-B of the ID Act shall stand vacated. The petitioner will revert to her original position on the date of illegal and void termination caused by breach of law in the Industrial Disputes Act, 1947. Now the award of reinstatement etc. be implemented without delay and compliance report submitted within two months for the perusal of the Court.

Manpreet Sawhney

Before M. Jeyapaul & Darshan Singh, JJ.

AMARJEET KAUR—*Petitioner*

versus

CENTRAL ADMINISTRATIVE TRIBUNAL CHANDIGARH BENCH—*Respondents*

CWP No.19241 of 2014

October 30, 2015

A) ***Constitution of India, 1950—Arts.14, 16 and 226—Selection process—Petitioner participated in the entire selection process—Declared unsuccessful—Cannot turn around and subsequently contend that the process of interview was unfair and selection committee was not properly constituted.***

B) ***Constitution of India, 1950—Judicial Review—Selection process—No specific allegation has been made against any members of the selection committee—Court cannot substitute its opinion to re-assess the merits of the candidate—Members of the Recruitment Committee are the best judge to award the marks in the interview taking into consideration all the relevant factors and suitability for the post.***