Before S.S. Nijjar, J

MANAGEMENT OF THE VICE-CHANCELLOR, KURUKSHETRA UNIVERSITY KURUKSHETRA—*Peititoner*

versus

PRESIDING OFFICERS, LABOUR COURT, AMBALA AND ANOTHER—*Respondents*

CWP No. 6680 of 1999

24th August, 2001

Industrial Disputes Act, 1947—Ss. 2(oo)(bb), 2(j) & 25-F—Constitution of India, 1950—Art. 226—Unfair Labour practice—Termination of services of an ad hoc employee after about 4 years continuous service with some notional breaks—Rules prescribe that workman will not be regularised until he/she qualifies typing test—Workman failing to pass type test despite given seven chances—Termination without complying with the provisions of Section 25-F—Rules do not provide any time limit for passing the type test—Condition of type test already relaxed in many other cases—Action of the management terminating the services discriminatory & void abinitio—Award of the Labour Court directing reinstatement with continuity of service & back wages from the date of demand notice upheld.

Held, that the respondent-workman has not been given fair treatment. The statutory rule does not provide any time limit in passing the test. It also does not provide the number of maximum chances within which the appointee must pass the typing test. In the event of a person not passing the test, the consequence is only that the services of the workman will not be regularised until he/she qualifies in the typing test. Therefore, this provision in itself cannot be used for terminating the services of the workman. Order dated 16th March, 1991 passed by the Vice Chancellor clearly shows that condition of passing the test is relaxable. The power of relaxation has been exercised in the case of 17 Clerks appointed on 20th April, 1988. The same has not been exercised in the case of respondent No. 2. This action of the petitioner-management clearly shows that workman has been subjected to hostile discrimination. Clearly, the services of the workman have been terminated on the ground that she had not been able to pass the typing test, even though seven chances had been

given to her. The termination of her services on account of non-passing of the typing test amounts to retrenchment. The provisions of Section 25-F of the Act have not been complied with. Therefore, the termination of her services is void *ab initio*.

(Paras 15 & 16)

Satish Sibal, Sr. Advocate with V.S. Rana, Advocate, for the Petitioner.

R.N. Raina, Advocate, for the respondent.

JUDGMENT

S.S. Nijjar, J.

(1) Kurukshetra University (hereinafter referred to as the Management) has filed this writ petition under Articles 226/227 of the Constitution of India seeking a writ in the nature of certiorari quashing the award passed by the Presiding Officer, Labour Court, Ambala dated 15th September, 1998 wherein the termination of services of the respondent No. 2 (hereinafter referred to as the workman) have been held to be unjustified and illegal and further directing her reinstatement with continuity of service and back wages from the date of demand notice till reinstatement.

(2) The workman was initially appointed as Junior Clerk on 19th November 1985. The appointment was purely on *adhoc* basis for a period of six months or till regular selection is made, whichever is earlier. Subsequently on a number of occasions, she was re-appointed on *ad hoc* basis for a period of six months. She was appointed for the last time on 3rd June, 1989. Her services were terminated by an order on 8th March, 1990. The appointment order stipulated that her conditions of service, in so far as they are not specified in the letter of appointment, will be governed by the rules of the University as in force from time to time. Qualifications for various posts in the University are given in Schedule II of the Kurukshetra University Calendar Vol. III. The rules applicable in the case of the workman are as under :—

"21. Clerk :

1. (i) Matriculation/Higher Secondary/Pre-University at least in 2nd Division, or Graduate of this University or

equivalent qualification from a recognised University/ Board.

OR

(ii) (a) Martic and (b) Hons. in Hindi (Prabhakar) or Sahitya Ratna or any other equivalent examination or Diploma in Office Organization/Secretarial Practice at least in 2nd Division.

2. Pass in a test in typewriting at the speed of at least 30 words per minute.

3. Graduates, if selected on the basis of their merit in the written test, will have to qualify the typing test at a speed of 30 w.p.m. within a period of one year, failing which they will not become eligible for confirmation until they qualify in the typing test :

Provided that in the case of internal candidates, who have at least three years' approved service in this University to their credit, the qualifications at Sr. No. 1 are relaxable to Matric III Division :

Provided further that the clerks appointed on *ad hoc* basis will have to pass in a test in typewriting at the speed of 30 w.p.m. within one year failing which they will not become eligible for appointment on regular basis until they qualify in the typing test."

(3) On the basis of the aforesaid rule, the workman was required to pass the test in typewriting at the speed of 30 w.p.m. within one year of the appointment. Since the workman was unable to pass the test in typewriting her appointment was extended from time to time on *ad hoc* basis. She took the test on 14th September, 1987, 8th February, 1988, 19th April, 1988, 21st June, 1988, 19th August, 1988, 17th April, 1989 and 23rd October, 1989. Inspite of having been given seven opportunities, the workman could not qualify the test. Before her services could be terminated, the workman filed CWP No. 15520 of 1989 on 28th November, 1989 seeking regularisation of service on the basis of a judgment given by a Division Bench of this Court in CWP No. 72 of 1988. In the present writ petition, the workman has pleaded that she had been appointed as a clerk on *ad*

hoc basis by appointment letter dated 19th November, 1985 for a period of six months which was extended from time to time, by giving repeated appointment letters after giving one or two days break. She had served the University as a Clerk on *ad hoc* basis since 15th November, 1985 with some notional break and had completed more than four years service. It was further her case that the University is an industry and that she is a workman within the meaning of Section 2(s) of the Industrial Disputes Act (hereinafter referred to as the Act). She had further claimed that on completion of 240 days of service, she is entitled to regularisation of service. She has also claimed the regularisation of her services, on the basis of four years of continuous service. In Paragraph 6 the workman had pleaded that she has been given repeated appointments on *ad hoc* basis to deprive her of the claim for regularisation. She had also claimed that she was entitled to be granted annual increments and other benefits which have been allowed to the staff regularly employed.

(4) In response to this writ petition, the University had filed written statement. In paragraph 6, it was stated that the petitioner (workman in the present case) appeared in the type test on seven occasions. As she could not qualify in the type test, she does not fulfil the minimum qualification for the post of Clerk as prescribed in Schedule II of the University Calendar Vol. III, 1993. Thereafter, the rule has been reproduced without any further comments.

(5) On 30th November, 1989, this Court passed the following order :—

"C.W.P. No. 15520 of 89

Present : Mr. Dinesh Kumar, Advocate

Notice of motion for 28th February, 1990. Status quo with regard to petitioner's service till further orders.

Sd/- I.S. Tiwana

Sd/- A.P. Chowdhri

30th November, 1989 Judges"

(6) After filing of the written statement, the writ petition was dismissed on 28th February, 1990 by the following order :—

"CWP No. 15520 of 1989

Mr. Dinesh Kumar, Advocate

Mr. J.L. Gupta, Sr. Advocate with Mr. Y.S. Banga, Advocate.

Dismissed in view of para no. 6 of the written statement :—

sd/- I.S. Tiwana

sd/- G.R. Majithia

28th February, 1990. Judges."

(7) After the dismissal of the writ petition, services of the workman were terminated on 8th March, 1990. She, therefore, served a demand notice on the petitioner and the Governor of Haryana referred the industrial dispute under Section 10(1)(c) of the Act by Govt. notification bearing No. 18816, dated 30th May, 1991, as follows :—

"Whether termination of services of Smt. Kusum Malhotra is valid and justified, if not so, to what relief is she entitled."

(8) After completion of the pleading, the Labour Court, Ambala framed the following issues :—

1. As per ref. ? OP
2. Whether the ref. is bad in eye of law as there was no relationship of workman and management between the parties ? OPM
3. Whether there is no industrial dispute, as such, ref. is not maintainable ? OPM
4. Relief ?

(9) The labour Court has taken up issues No. 1 and 3 jointly for decision. On the basis of the judgment of the Supreme Court in the case of *Santosh Gupta* v. *State Bank of Patiala* (1). It was contended that respondent No. 2 had been appointed as a clerk on

(1) 1980 Lab I.C. 687

9th November, 1985. Her services were abruptly terminated on 8th March, 1990. She had already completed more than 240 days of continuous service. Termination of her services on the ground that she could not qualify the type test amounts to retrenchment. It was further contended that respondent No. 2 was a workman as defined under Section 2(s) of the Industrial Disputes Act. The Management is an industry. So the termination of the services of the workman, without following the provisions of Section 25-F is void *ab initio*. On behalf of the Management, it was contended that Section 25-F of the Act was not applicable because this was not a case of retrenchment. It is specifically mentioned that the appointment of the workman was for a period of six moths and the last date of her work was 2nd December, 1989. The appointment letter is an agreement of appointment and it is for a fixed period, there is no violation of Section 25-F. It was further contended that in view of Section 2(oo)(b), the workman was not entitled to the protection of the Industrial Disputes Act as it was a contract of employment for a fixed term. It was also contended that the appointment of the workman was for a fixed period with specific condition that she has to qualify the type test, otherwise her services will be terminated. It was further contended that the University is not an industry. Hence, no industrial dispute can be raised by the workman. Furthermore, it was contended that the University has its own rules and in the face of these statutory rules, the Labour Court had no jurisdiction as the provisions of the Industrial Disputes Act will not apply. After considering the submissions made by the learned counsel for the parties, the Labour Court has given its finding on each of the issues raised. Relying on a Division Bench judgment of this Court in the case of *Sumer Chand* v. *Presiding Officer, Labour Court, Ambala and others* (2), the Labour Court has held that the University is an "industry". It has been held by the Labour Court that the University is rendering service to the society satisfying human wants and needs. It has also been held that since the employee of a University has no right to approach the Administrative Tribunal under the provisions of the Administrative Tribunal Act, the statutory service rules would not be a bar to the workman approaching Labour Court under the Industrial Disputes Act. It has been held that the employees of the University are not holding any civil post as the provisions of the Civil Services Rules are not applicable to them. The

(2) 1990 (1) RSJ 283

Labour Court, thereafter, dealt with the contention of the Management to the effect that the workman had been appointed for a fixed term and that she had to qualify the test within the stipulated period. This plea was rejected again on the basis of a judgment of this Court in *Shimla Devi v. Presding Officer, labour Courts, Bhatinda,* (3), wherein it has been held that plea of automatic termination on expiry of fixed period of appointment cannot be sustained unless it is proved by producing the relevant record that the workman was appointed for doing a specific job and their services have come to end on completion of that job. The Labour Court gave a finding of fact to the effect that there is no material to show that the work had ceased to exist. It has also been held that the Management was required to establish that the work for which the applicant was engaged, did not exist and that no such work was available for extension of her appointment. Therefore, it has been held that protection of Section 2(oo)(b) cannot be claimed by the employer. Therefore, the Labour Court meticulously examined the sequence of events and notices that the appointment of the workman with notional break is nothing, but a colourable exercise of power by the Management which cannot be considereed to be an act of good faith on its part. It was also contended before the Labour Court that last appointment letter dated 22nd August, 1989 mentions that the workman was offered the appointment for a period of six months. It was also mentioned that she was required to qualify the test at the speed of 30 w.p.m. failing which, her services will be dispensed with. This letter was produced in the Labour Court as Ex. A-34. From a perusal of the same, the Labour Court has concluded that the aforesaid letter has been issued in pursuance of the decision in CWP No. 15520 of 1989. In this letter, it is not mentioned that the services of the workman are being terminated as she had failed to qualify the type test. Rather the services of the workman were terminated in view of dismissal of writ petition which she had filed claiming regularisation of her services. The Labour Court further held that even if she had failed to qualify the typing test, the services of the workman could not be terminated without complying with the provisions of Section 25-F of the Industrial Disputes Act. The Labour Court relies on the case of *Santosh Gupta* v. *State Bank of Patiala* (supra). In that case also the workman had not passed the test which would have enabled her to be confirmed when here services were terminated without

(3) 1998 (2) SCT 73

complying with the provisions of the Industrial Disputes Act. It was held that it amounted to illegal retrenchment. Since in the present case, the Management had not complied with Section 25-F of the Act, the termination of the services of the workman were void ab initio. On the basis of the aforesaid findings, issues No. 1 and 3 were decided against the workman. In view of the aforesaid findings on issues No. 1 and 3, the Labour Court also decided issue No. 2 in favour of the workman to the effect that there existed the relationship of employer and employee between the parties.

(10) Mr. Sibal appearing for the University has reiterated the submissions which were made before the Labour Court Mr. Sibal submitted that the Labour Court had no jurisdiction to entertain the reference as the workman had chosen her remedy by filing CWP No. 15520 of 1989. In that writ petition, identical issues had been raised, and therefore, the workman could not have approached the Labour Court. In support of this submission, the learned Sr. counsel relied on a Full Bench decision of this Court in the case of *Teja Singh v. Union Territory of Chandigarh and others* (4). In paragraph 27 of the aforesaid judgment, it has been held as follows :—

> "27 (3) : That when a writ petition is dismissed after contest by passing a speaking order, then such decision would operate as *res judicate* in any other proceeding such as suit, a petition under Art. 32 etc."

(11) I find it difficult to accept the submission made by the learned Sr. counsel. No doubt in paragraphs 4 and 5 of the writ petition, the workman had stated that the University is an industry relying on the judgment of the Supreme Court in the case of *Bangalore Water Supply and Sewerage Board v. Rajappa and others* (5). She had also stated in paragraph 5 that she is a workman as defined under Section 2(s) of the Act. But the main thrust of the writ petition was to seek regularisation on the basis of the judgment rendered by a Division Bench of this court in CWP No. 72 of 1988. This claim for regularisation was rejected and the writ petition filed by her was dismissed. A perusal of the order dated 28th February, 1990 shows that the writ was dismissed in view of paragraph 6 of the written

(4) AIR 1982 Pb & Hy 169
(5) AIR 1978 SC 548

statement. As noticed earlier in paragraph 6, the respondent-University has merely stated that the services of the workman cannot be regularised as she could not qualify the typing test in seven chances. It was also stated that workman does not fulfil the minimum qualification for the post of Clerk as prescribed under Schedule II of the University Calendar Volumn III, 1984. A bare perusal of the rules clearly shows that even regularly recruited clerks are required to pass the test in typewriting at the speed of at least 30 w.p.m. within a period of one year, failing which they will not become eligible for confirmation until they qualify in the typing test. For *ad hoc* appointees, it is provided that they will *have to pass the test within one year, failing which they will not become eligible for appointment on regular basis until they qualify in the typing test.* A perusal of the order passed by the Division Bench on 28th February, 1990 in *juxtaposition* with the proviso of the rules applicable to the *ad hoc* appointees would clearly show that the writ petition had been dismissed on the ground that the workman (the petitioner therein) had failed to qualify the typing test. It was, therefore, held that she was not entitled to the relief of regularisation. At the time when the workman (the petitioner therein) filed the aforesaid writ petition, her service had not been terminated. She has specifically pleaded that the respondent-University has taken some secret decision to terminate the services of the *ad hoc* employees and under such circumstances, the petitioner reasonably apprehends that her services may be terminated by the respondent-University any time. It was further stated that till the filing of the writ petition, she was continuing in service and no termination order has either been passed or served on her. Therefore, when her services were terminated by order, dated 8th March, 1990, a completely new cause of action had arisen in her favour. In any event, the writ petition dealt with the restricted claim of the petitioner-workman with regard to regularisation of service on the basis of the judgment rendered in CWP No. 72 of 1988. It cannot, therefore, be held that the dismissal of the writ petition operated as *res judicata* against the workman in claiming in reference under the Industrial Disputes Act.

(12) Mr. Sibal had then contended that Industrial Disputes Act is not applicable in the present case as the University is not an industry. It was further contended that respondent No. 2 was not a workman as defined under Section 2(s) of the Act. I am unable to

accept this submission also. I am of the considered opinion that it is too late in the day to either say that University is not an industry or that the respondent No. 2 even though working on the post of Clerk would not fall within the definition of "workman" under Section 2(s) of the Act. In view of the Division Bench judgment of this Court given in the case of *Sumer Chand v. Presiding Officer, Labour Court, Ambala* (supra), the matter with regard to the petitioner being an industry is no longer *res integra.* In paragraphs 5 and 6 of the aforesaid judgment, it has been held as follows :—

> "5. In Miss. A Sudarambai's case *(supra),* it was observed that an educational institution was an industry. It was possible that some of the employees in that industry might not be workman. It was observed there in that view of the Hon'ble Supreme Court that University of Delhi was not and industry was expressly overuled in Bangalore Water Supply and Sewrage Board's case *(supra).*
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> 6. In view of the dictum laid by their Lordships of the Supreme Court in the cases cited above, I am of the considered view that the University is an industry and the petitioner was a workman as envisaged by the Industrial Disputes Act and the Presiding Officer of the Labour Court had the jurisdiction to decide the dispute. Thus, the finding arrived at by the Authority that it had no jurisdiction to try the dispute, is set aside."

(13) Mr. Sibal had then argued that Industrial Disputes Act would not apply in the present case as the service condition of the respondent-workman are governed by statutory service rules. In support of this submission, Mr. Sibal has relied on a judgment of the Supreme Court in the case of *Bombay Telephone Canteen Employees' Association, Prabhadevi Telephone Exchange vs. Union of India* (6), This judgment is of no avail to the petitioner as subsequently in the case of *General Manager, Telecom vs. S. Srinivasa* (7), the Supreme Court specifically over-ruled the same. The Labour Court has rightly

(6) 1997(3) SCT 498
(7) 1998(1) SCT 230

distinguished the judgment given by the Supreme Court in the case of *Physical Research Laborartory vs. K.G. Sharma* (8). In that case, it was held that it is nobody's case that PRL is engaged in an activity which can be called business, trade or manufacture. In the present case, the matter squarely falls within the definition of "Industry" given in *Bangalore Water Supply and sewerage Board's case (supra),* in which it has been categorically held that professions clubs, education institutions cannot be excluded from the scope of Section 2(j), if they fulfil the triple tests laid down therein. The dominant nature test for deciding whether the establishment is an "industry" or not is summarised in para 161(IV) the judgment of Justice Krishna Iyer which is as under :—

> "(a) where a complex of activities, some of which quality for exemption, others not, involves employees on the total undertaking, some of whom are not 'workman' as in the University of Delhi case *(supra)* or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur *(supra),* will be the true test. The whole undertaking, will be industry although those who are not workman by definition may not benefit by the status.
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> (b) Notwithstanding the previous clauses, sovereign functions, strictly understood, (alone) qualify for exemption, not the welfare activities or economic adventures undertaken by government or statutory bodies.
>
> (c) Even in departments discharging sovereign functions, if there are units which are industries and they are susbtantially severable, then they can be considered to come within Section 2(j).
>
> (d) Constitutional and competently enacted legislative provision may well remove from the scope of the Act categories, which otherwise may be covered thereby."

(8) 1997 (2) SCT 492

(14) Analysing these tests, a Division Bench of this Court in the case of *Sumer Chand's case (supra)* has held this very University to be an"industry". Mr. Sibal sought to narrow the ratio of the aforesaid judgment by saying that it was limited to menial workers like Malis and Chowkidars. I am unable to discern any such limitation in the opinion ratio of the judgment. I am of the considered opinion that the Labour Court has correctly decided that the University is an industry and that the respondent-workman falls within the definition of "workman" as given in Section 2(s) of the Act.

(15) Mr. Sibal, thereafter argued that in view of section 2(oo) (bb) of the Act, the workman cannot be given protection of the Industrial Disputes Act as she had been appointed for a fixed period and her services were terminated in accordance with the contract. In support of the submission, the learned Sr. counsel has relied on a judgment of this Court in the case of *Panipat Thermal Power Project station* vs. *The State of Haryana and others* (9), I am unable to accept this submission of the learned Sr. Counsel also. In the Panipat Thermal Power Project station's case (supra), the High Court was dealing with the case where the services had been terminated under the stipulation contained in the contract. The services of the workman had not been terminated on account of failure to pass any test. In the present case, it has been proved that the respondent no. 2-workman had been given repeated appointments on *ad hoc* basis. After considering the facts and circumstances of this case, the Labour Court has come to the conclusion that the University has acted unfairly. It has been found that the serives of the workman had not been terminated in good faith. It has also been found that she was not appointed only to do a specific job. In my view, the Labour Court rightly relied on the jdugment of this Court in the case of *Shimla Devi (supra)* wherein it has been held that only a *bona fide* exercise of the right by an employer to terminate the service in terms of the contract of employment or for non-renewal of the contract will be covered by the Clause (bb). If the Court finds that the exercise of rights by the employer is not *bona fide* or the employer has adopted the methodology of fixed term employment as a conduit or mechanism to frustrate the rights of the workman, the termination of the service will not be covered by the exception contained in clause (bb). Instead the action

(9) 1995 (4) RSJ 75

of the employer will have to be treated as an act of unfair labour practice, as specified in the Fifth Schedule of the Act. I am of the considered opinion that the respondent-workman has not been given fair treatment. The statutory rule reproduced above does not provide any time limit in passing the test. It also does not provide the number of maximum chances within which the appointee must pass the typing test. In the event of a person not passing the test, the consequences is only that the services of the workman will not be regularised until he/she qualifies in the typing test. Therefore, this provision in itself cannot be used for terminating the services of the workman. A perusal of the above shows that the case of the workman-respondent no. 2 falls squarely within the law laid down by the Supreme Court in the case of **Santosh Gupta** (supra). In that case, the services of the workman were terminated due to her failure to pass the test which would have enabled her to be confirmed in the service. Therfore, it was contended by the management that the termination did not amount to retrenchment within the meaning of Section 2 (oo) of the Industrial Disputes Act. After discussing the entire matter, it was held that the discharge of the workman on the ground that she did not pass the typing test was retrenchment within the meaning of section 2(oo). Failure to pass the test could only deprive her of confirmation. It could not lead to termination of service. Therefore, the requirements of section 25-F have to be complied with.

(16) Mr. Raina has brought to the notice of this Court an order, dated 16th March, 1991, attached with the written statement as Annexure R2/1, whereby the Vice-Chancellor has been pleased to withdraw ab *initio* the conditions of qualifying test imposed on 17 clerks appointed on 20th April, 1988. This order clearly shows that condition of passing the test is relaxable. The power of releaxtion has been exercised in the case of 17 clerks appointed on 20th April, 1988. The same has not been exercised in the case of respondent no. 2. This action of the petitioner clearly shows that workman-respondent no. 2 has been subjected to hostile discrimination. It would, therefore not be possible to accept the submission of Mr. Sibal that the Management is entitled to the protection under Section 2(oo) (bb) of the Act which is applicable in cases where the employment comes to an end of efflux of time. Clearly, the services of the workman have been terminated on the ground that she had not been able to pass the typing test, even though seven chances had been given to

her. The termination of her services on account of non-passing of the typing test amounts to retrenchment. Admittedly, the provisions of section 25-F of the Act have not been complied with. Therefore, the termination of her services is void *ab initio*. Mr Sibal has lastly contended that in any event the Labour Court errred in granting the relief of reinstatement with continuity of service and back wages from the date of demand notice till reinstatement. I am unable to agree with the aforesaid submission. By wrongly using the dismissal of the CWP No. 15520 of 1989 as lever for terminating the services of the workman, the Management has thrown her into head-long litigation for a period of almost 11 years. The interpretation placed by the Management on the rules applicable to the respondent-workman was clearly erroneous. Therefore, it has to be held that the workman-respondent no. 2 was not at all responsible for being kept out of her job. It is a well settled proposition of law that non-compliance of Section 25F of the Industrial Disputes Act renders the retrenchment void *ab initio*. It is also settled that on reinstatement normally the workman is entitled to full back wages. Any party wishing to depart from the normal rule has to give justification for the departure. This proposition has been settled by a Full Bench decision of this Court in the case of *Hari Palace, Ambala City* vs. *The Presiding Officer, Labour Court and another* (10). In the aforesaid case, it has been held as follows :—

> "6. However, all controversy now seems to have been set at rest by their Lordships of the Supreme Court in M/S Hindustan Tin Works Pvt. Ltd. *v.* The employees of M/s Hindustan Tin Works Pvt. Ltd. and others, wherein the appeal by Special Leave was expressly limited to the question of grant of back wages. It has been held therein in on uncertain terms :
>
> "Ordinarily, therefore, a workman whose service has been illegally terminated would be entitled to full back wages except to the extent he was gainfully employed during the enforced idleness. That is the normal rule. Any other view would be a premium on the unwarranted litigative activity of the employer".

(10) PLR Vol. LXXXI—1979 720

And again :

> "Full back wages would be the normal rule and the party objecting to it must establish the circumstances necessitating departure"
>
> The aforesaid view has then been reiterated by their Lordships in **G.T. Lad and others** *v.* **Chemicals and Fibres India Ltd."**

(17) In view of the above, I find no merit in this submission of Mr. Sibal also.

(18) It is settled proposition of law that while exercising writ jurisdiction under Articles 226/227 of the Constitution of India over the award given by the Labour Court/Industrial Tribunal, this Court would not sit as a court of appeal. While exercising writ jurisdiction, this Court would be justified in interfering with the Award which suffers from an error apparent on the face of the record. It would also be justified in interfering with the award if the findings returned by the Labour Court are based on no evidence. It would also be justified in interfering with the award if the findings of facts appear to be perverse on the face of the record. This court would not interfere with the award merely on the ground that on the some evidence, it would be possible to give a view different from the one recorded by the Labour Court. Having considered the entire matter, this Court is of the view that the award does not suffer from any error apparent on the face of the record.

(19) Consequently, this writ petition is dismissed. There will be no order as to costs.

R.N.R.

Before J.S. Narang, J

ADHIYAMAAN EDUCATIONAL & RESEARCH INSTITUTIONS (REGISTERED TRUST) & ANOTHER—*Peititoners*

versus

THE MAHARISHI DAYANAND UNIVERSITY, ROHTAK —*Respondent*

CWP No. 11321 of 2000