

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Date of Decision: 19-10-1995.

Special Civil Application No.207 of 1995 - With -
Special Civil Application No. 1031 of 1995

AND

Special Civil Application No. 208 of 1995 - With -
Special Civil Application No. 1030 of 1995

For Approval and Signature:

THE HON'BLE MR. JUSTICE B.C. PATEL

And

THE HON'BLE MR. JUSTICE H.R. SHELAT.

1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether Their Lordships wish to see the fair copy of Judgment ?
4. Whether this case involves substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judge?

Special Civil Application No.207 & 208 of 1995:

Mr. K.S. Nanavati, Advocate for the petitioner.
Mr. H.K. Rathod, Advocate for the respondents.

Special Civil Application No.1030 & 1031 of 1995:

Mr. H.K. Rathod, Advocate for the petitioners.
Mr. K.S. Nanavati, Advocate for the respondent.

Coram: B.C.Patel, J. And H.R. Shelat, J.
(19-10-1995)

ORAL JUDGMENT: (Per: B.C. Patel, J.)

1. All these four petitions are disposed of by a common Judgment though the subject matter arises from two different awards from two group of petitions namely, Special Civil Applications Nos.207 & 1031 of 1995 and Special Civil Applications Nos. 208 & 1030 of 1995 is same and as the short point involved in all the petitions is also the same.

2. These petitions arise from two references, namely, Reference (LCR) No. 155 of 1990 and Reference (LCR) No. 1519 of 1989 wherein disputes were raised by two different workmen and ultimately the competent authority under the provisions contained in the Industrial Disputes Act referred the matter to the Labour Court, Rajkot. In both the References, the impugned awards are pronounced on 15-10-1994 by respondent No.2 and the workmen concerned were ordered to be reinstated in service. The employer as well as the workmen have challenged the impugned awards. The employer has challenged the awards on the ground that no sufficient and reasonable opportunity has been given to place the matter before the Labour Court; hence the impugned awards are bad; and should be quashed and set aside. Against respondent No.2 Presiding Officer, Special Civil Applications were preferred seeking writ of quo-warranto on the ground that his appointment as Labour Court Judge was in contravention of Section 9(2) of The Bombay Industrial Relations Act, 1946 as he was not qualified for being appointed as a Judge of the Labour Court. After considering various contentions raised by the parties, the Court allowed the petition and issued a writ as prayed for and respondent No.2 was restrained from discharging any of the functions, rights or duties as a Presiding Officer of the Labour Court. The Judgment delivered by the Court is reported in 1995(2)G.L.R. 1028.

3. It transpires from Special Civil Application No. 207 of 1995, that by an order dated 31st August 1994, the Labour Court cancelled the Vakalatnama of the advocate who was appearing on behalf of the employer. Similarly, from the record of Special Civil Application No. 208 of 1995, it appears that the Labour Court cancelled the Vakalatnama of an Advocate representing the employer. Before the Division Bench of this Court, it was pointed out that about 900 vakalatnamas have been cancelled by respondent No.2 on 31st August, 1994 and this Court has quashed and set aside that order by which vakalatnamas were cancelled. In view of the aforesaid decision rendered by the Division Bench of this Court, without entering into the merits of the case, we set aside the impugned awards dated 15-10-1994 and also the orders dated 31-8-1994 by which Vakalatnamas of learned advocates, appearing on behalf of the employers, were cancelled by the respondent No.2. In the result, we accept the petitions

of petitioners being Special Civil Application No. 207 of 1995 and Special Civil Application No. 208 of 1995, and direct the Labour Court to proceed with the matters from the stage at which the vakalatnamas of the advocates came to be cancelled on 31-8-1994. In view of this order, we do not pass any further orders in Special Civil Applications Nos 1030 and 1031 of 1995 preferred by workmen.

4. At the time of admission, in both these matters namely Special Civil Application No. 207 and 208 of 1995, the Court stayed the operation of the impugned award subject to the provisions of Section 17B of the Industrial Disputes Act. Mr. Rathod, learned Advocate for the workmen pointed out, by filing an affidavit that in the month of February 1995 it has been pointed out to the employer that there is a breach of Section 17B of the Act. He further submitted that by a registered letter the employer was informed of the same but however till this date the amount is not paid as required to be paid in view of the order passed by this Court. Under the circumstances, it is directed that the workman shall be paid wages from 13th January 1995 till this date with interest at the rate of 18% p.a.

5. The petitions are filed by Gujarat State Forest Development Corporation Ltd, Rajkot, a public corporation. In spite of the fact that the court passed the order on 13th January 1995, the Corporation has not complied with the order. Even though affidavit is placed on record by the workmen and a letter to that effect is also addressed to the Project Officer as well as to the Managing Director of the Corporation, no one has bothered to see that the workmen are not deprived of the benefits which otherwise they are entitled to under Section 17B of the Industrial Disputes Act. Under these circumstances, it would be just and proper to see that the Corporation may not suffer for the negligence of its officers and the amount of interest, which is required to be paid to the workmen, is recovered from the Project Officer, Rajkot, Mr. Jagannathan and Managing Director of the Corporation. However, it would be open for the Managing Director of the Corporation to hold an enquiry and to find out the erring person who is liable to make the payment of interest and it will be open to him to recover the amount of interest from such person, but he should certainly see that the burden of payment of amount of interest is not on the corporation. It is directed that if the Managing Director holds an enquiry to determine the liability of erring person and recovers the amount of interest, then the Managing Director shall complete such enquiry and shall submit a report to that effect within a period of 3 months from today. It is also directed that the amount of wages shall be paid within a period of one week from today and the amount of interest may be paid within a period of one month from today.

Rule is made absolute in Special Civil Applications Nos.
207 of 1995 and 208 of 1995. Rule is discharged in Special Civil
Applications Nos. 1030 and 1031 of 1995.

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