

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Date of Decision: 19-10-1995.

Special Civil Application No. 6685 of 1985

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?

Mr. H.K. Rathod, Advocate for the petitioner.

Mr. K.V. Gadhra, Advocate for the respondents.

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

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

1. The petitioner, by filing this petition, has challenged the award in Reference No. LCR 20/90 delivered by respondent No.2, Presiding Officer, Labour Court, Rajkot on 30th September, 1994.

2. The dispute raised by the petitioner was ultimately referred for adjudication by Assistant Labour Commissioner, Adipur on 27-11-1989 for a decision. The dispute was raised, as alleged by the petitioner, that his services were terminated in contravention of the provisions contained in the Industrial

Disputes Act. It appears that evidence is recorded by the Labour Court and the matter was adjourned for hearing the arguments. As observed in the award, on behalf of the employer written submissions were made, however, on behalf of the workman nothing was placed on record in writing in the form of written submissions nor oral submissions were advanced. From the record, it transpires that on 13-6-1994 on behalf of the workman written submissions were tendered and yet the Labour Court in the award has observed that no written submissions are made on behalf of the workman. It transpires from the application that Bar Association passed resolution on 21-6-1994 deciding not to conduct the matters before respondent No.2. Thereafter, on 29-6-1994, President of the Tribunal visited from Rajkot and it was decided that no decision shall be rendered in pending matters. Some petitions were preferred in this Court against respondent No.2, as submitted by Mr. Rathod, being Special Civil Applications Nos.9792/94 and 11114/94, 11115/94, 11116/94 and 11117/94; and after hearing the parties including respondent No.2, this Court requested a retired Judge of this Court to accept the assignment as Commissioner to hold an enquiry and submit his report with regard to the matters referred in the judgment; the report was accordingly received; this Court thereafter issued a writ of quo-warranto; the appointment of respondent No.2 as Presiding Officer of Labour Court was quashed and set aside; and it was held that he is not eligible for appointment as Presiding Officer of Labour Court on the ground that he was not qualified under Section 9(2) of the Bombay Industrial Relations Act, 1946. The Court also directed the State Government to pass necessary orders forthwith and also restrained respondent No.2 from discharging any of the functions, rights or duties of the aforesaid post.

3. In the instant case, learned Advocate Mr. Rathod pointed out that the Labour Court has not acted fairly inspite of the fact that written submissions were placed on the record; without perusing the same the Labour Court held that the written submissions are not made and passed an order; and therefore serious prejudice is caused to the petitioner. Under the circumstances, we quash the impugned award with a direction to the Labour Court to dispose of the matter from the stage of the arguments.

4. Rule is made absolute accordingly with no order as to costs.

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