

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1915 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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

VASANT ENGINEERING PVT. LTD.

Versus

SUMERSING RAMADHAN RAJPUT

Appearance:

MR PC MASTER for Petitioner

MR HK RATHOD for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/11/96

ORAL JUDGEMENT

Heard learned counsel for the parties.

I do not find any illegality in the award of the Labour Court, Baroda made in Ref. LCA No.1237/77 dated 20th September, 1983 to the extent where the reinstatement of the workman-respondent has been ordered, but the award to the extent where the respondent-workman has been awarded 50% of full backwages cannot be allowed

to stand.

The Labour court has held as a fact that as regard the backwages the employee has admitted that he is running a rickshaw and he is earning Rs.500/- every month on average. The Labour court has further recorded a finding that the employee-workman is holding a licence of rickshaw. Thus, after recording of the aforesaid findings, I fail to see how the Labour court was justified to award 50% of the backwages. The finding of the Labour court appreciating the fact that the employee was in service for a short period and also the fact that the employee was running a rickshaw and is accordingly entitled to 50% backwages, is perverse. Once the Labour court has found as a fact that the workman was in gainful employment then he was not entitled for any backwages. The principle of 'No Work No Pay' is certainly attracted in such cases. Moreover, it is not in dispute that the workman at the time when his services were terminated was getting only Rs.3-75 as wages per day and in comparison to that the workman as per his own admission was earning average Rs.500/- per month.

The net result of the aforesaid discussion is that this Special Civil Application succeeds in part and though the award of reinstatement is maintained, but the award of the Labour court to the extent of awarding 50% of the backwages to the workman-respondent is set aside. Rule is made absolute in the aforesaid terms with no order as to costs.

zgs/-