

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5112 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 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? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

MANAGER

GUJARAT TELEPHONES CABLES LTD

Versus

HARSHAD KESHAVLAL PUJARA

Appearance:

1. Special Civil Application No. 5112 of 2001
MR PRABHAKAR UPADYAY for Petitioner No. 1
MR ASHISH H SHAH for Respondent No. 1
..... for Respondents No. 2-38

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 28/12/2001

ORAL JUDGEMENT

#. Rule. Learned advocate Mr.Shah appearing on caveat waives service of rule.

#. By this petition under Articles 226 and 227 of the Constitution, the petitioner has challenged awards and orders of the Labour Court, but during the course of argument restricted the challenge to the order of Labour Court, Ahmedabad dated 18.9.2000 whereby the application of the petitioner for restoration of Reference (LCA) No.816/1997 is allowed subject to the condition of paying Rs.6,000/- by way of cost to each of the eligible workmen concerned.

#. After appreciating the material on record the Labour Court was inclined to allow the application of the petitioner to restore the reference which was decided exparte and that part of the order is not under challenge. However, the part of the order whereby the petitioner is required to pay by way of cost an amount of Rs.6,000/- is challenged on the ground that, that figure is arrived at on the basis of reasoning which is faulty. Going though the impugned order it appears that the Labour Court has taken into account the period between filing of the statement of claim by the workmen and the application made by the petitioner for restoration of the reference. Thus, considering that period of about 20 months and the wages that the workmen would have been entitled had they been in service is made the basis for awarding the aforesaid amount to be paid as a condition for restoration of the reference. This reasoning pre-supposes that the workmen concerned were entitled to reinstatement even as the dispute for reinstatement is yet to be adjudicated on merits. Therefore, obviously the basis on which the amounts are awarded cannot be sustained.

#. In the above facts and circumstances the learned counsel for the petitioner fairly submitted that the workmen having suffered the delay on account of negligence of the petitioner and in view of the prospect of their facing a fresh round of litigation a reasonable amount of Rs.500/- to each workmen concerned who had completed a year of service under the petitioner may be awarded and the impugned order may be modified to that extent. The learned counsel for the respondent insisted that Rs.2,000/- per eligible workmen would be the proper amount of cost, with the further request to order expeditious hearing of the main reference before the Labour Court.

#. Considering the facts and the submissions as above, the impugned order is modified to the extent that the original Reference (LCA) No.816/1997 shall stand restored and shall be heard and disposed of as expeditiously as

possible and preferably within a period of six months; and the workmen eligible under the impugned order for the amount of Rs.6,000/- shall each be paid, directly by cheque in their individual names Rs.1,000/- within a period of 1 month from today. Learned counsel on both sides have agreed and made a statement that the parties shall cooperate in early disposal of the main reference and no unnecessary adjournment shall be sought. With this order, the petition is partly allowed. Rule is made absolute accordingly with no order as to costs.

(D H. WAGHELA, J.)

kks