

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 54 of 2002
in
SPECIAL CIVIL APPLICATION No 13541 of 2000
and
CIVIL APPLICATION No 365 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT Sd/-
and

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
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? : NO
1 to 5 NO

JAYSHRI AMBIKA DAIRY

Versus

BABUBHAI MAGANBHAI

Appearance:

1. LETTERS PATENT APPEAL No. 54 of 2002
MR CHIRAG PAWAR for MR MANOJ S JOSHI for Appellants
MR TR MISHRA for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 28/02/2002

C.A.V. JUDGEMENT

(Per : MR.JUSTICE D.H.WAGHELA)

1. In this Letters Patent Appeal by the appellant-employer, the judgment obtained by the respondent-workman directing deposit and payment of Rs.50,000/- towards backwages is called into question. At the joint request on behalf of the parties, the appeal was taken up for final hearing and is disposed by this judgment.

2. The short facts of the long-lasting litigation are that the respondent-workman approached the Labour Court with the demand and dispute for reinstatement on the basis of his alleged illegal termination with effect from 25.9.1988. The Labour Court had to make an ex-parte award by order dated 23.9.1994, which contained a direction to reinstate the respondent with full backwages. That award was set aside at the instance of the appellant by order dated 6.2.1996 awarding costs of Rs.1,000/- and restoring the reference. The appellant again remained negligent and absent before the Labour Court and hence by order dated 12.1.1998, the Labour Court confirmed the earlier order dated 23.9.1994. The appellant, therefore, made a fresh application for restoration which was again allowed by order dated 12.1.2000 with an order to pay by way of costs Rs.4,000/coupled with the sum of Rs.1,000/- ordered to be paid earlier. That latter order was challenged by the respondent in his writ petition in which the impugned order to deposit the sum of Rs.50,000/- was made. The learned single Judge was, according to the impugned judgment, convinced that there was total negligence on the part of the appellant herein and it was clear that they were interested only in prolonging the litigation. Therefore, having regard to the pendency of the disputes since 1988, the learned single Judge was inclined to direct the respondent to deposit Rs.50,000/- towards backwages and, subject to final outcome of the proceedings, also granted liberty to the respondent to withdraw the same and also to direct the Labour Court to dispose the case on merits by 31.1.2002. The amount of Rs.5,000/- awarded by the Labour Court was also ordered to be deposited and allowed to be withdrawn by the respondent as costs.

3. It was argued on behalf of the appellant that the question of backwages or payment of any part thereof could not arise before adjudication of the dispute on merits before the Labour Court. And, due to financial and personal difficulties, the appellant was placed in a

precarious condition due to heavy burden cast upon him by the impugned order. The learned counsel Mr.Mishra appearing for the respondent submitted that even after the aforesaid judicial orders, the appellant had neither paid the original amount of costs of Rs.5,000/- nor was the case before the Labour Court proceeded expeditiously. Therefore, the efforts of the respondent to get justice and real relief were consistently thwarted by the appellant without ever facing the case on merits. There was, however, a consensus on the issue that the proceedings before the Labour Court were required to be expeditiously completed and both the parties were agreeable to cooperate in achieving that.

4. In the above facts and circumstances and considering the plight of the respondent, who is made to fight or defend one or the other proceedings since last 14 years without receiving any real relief and the attitude of the appellant, we are not inclined to interfere with the order to pay costs or the order to deposit the amount of Rs.50,000/- before the Labour Court. However, as far as the deposit of Rs.50,000/- is held to be towards backwages and made payable to the respondent, we deem it proper to interfere to the extent that that amount should be deposited in the Labour Court and in case the respondent is found to be entitled to any amount by way of backwages or otherwise, the same should be paid to him after publication of the award. The Labour Court shall, however, hear and dispose the reference as expeditiously as possible and in no case later than 31.3.2002. The parties shall, as promised by the learned counsel, not ask for any unnecessary adjournments before the Labour Court and cooperate in hearing and expeditious disposal of the main reference. The date of 31.1.2002 to dispose the reference on merits as prescribed in the impugned judgment shall stand extended accordingly. The time-limit for depositing the sum of Rs.50,000/- shall also stand extended upto 15.3.2002. The other amount of Rs.5,000/- shall also have to be paid to the respondent directly by the appellant by that date, if such amount is not already deposited in the Labour Court. With this modification of directions and dates, we maintain the direction of the learned single Judge that in case the appellant fails to pay or deposit the amounts as ordered above, then the Miscellaneous Civil Application No.102 of 1999 shall be treated to have been dismissed by the Labour Court, Ahmedabad and the award dated 23.9.1994 in Reference (LCA) No.2642 of 1988 ordering reinstatement with full backwages shall stand revived and become enforceable.

5. With the above modification and directions, the appeal is partly allowed with no order as to costs. No order in Civil Application No.365 of 2002.

Sd/-

(J.N.Bhatt, J.)

Sd/-

(D.H.Waghela,J.)

(KMG Thilake)