

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1894 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 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

HARIKRISHNA G. MODI

Versus

STATE OF GUJARAT

Appearance:

MR RE VARIAVA for Petitioner.
Mr. Sudhir Mehta, AGP for Respondent No. 1
MR DARSHAN M PARIKH for Respondent No. 2

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 27/02/2002

ORAL JUDGEMENT

The petitioner has challenged the award passed by the Central Industrial Tribunal, Gujarat, Ahmedabad in Reference (ITC) No. 1/89 on the ground that the said award is perverse on facts and also illegal as it was based on void and inoperative notification. The petitioner has further prayed for reinstatement in his original post with full backwages with 18% interest on it

and with all other consequential benefits holding that oral termination on 2-1-1988 of the petitioner was illegal.

2. In the impugned award mainly three issues were raised by the petitioner, firstly, application of Bombay Shops and Establishments Act; secondly, the petitioner has put-up services of 93 days with respondent No.2-bank, or 83 days of service as contended by respondent No.2-bank; and thirdly whether the respondent No.2 bank has violated the provisions contained in Section 25-F of the Industrial Disputes Act, 1947. The Industrial Tribunal has dealt with all the three issues at length and after hearing both the parties as well as considering the evidences placed before it had rejected all the three issues raised by the petitioner-workman before the Industrial Tribunal.

3. Before this Court, the learned advocate appearing for the petitioner has raised a new contention to the effect that the petitioner's service conditions were governed by award and Bipartite settlement entered into between the bank and recognised union under the Industrial Disputes Act, 1947. On the basis of this bipartite settlement, it is contended that the petitioner is falling within the category of temporary employee and since he has put up the services of 96 days a notice was required to be issued on him and since this was not done the petitioner was required to be given retrenchment compensation. So far as this fresh point is concerned, I am of the view that the scope under Article 227 is very limited and the petitioner is not permitted to raise this issue for the first time before this Court and hence this Court would not think it proper to deal with the said point. So far as other points are concerned which were raised before the Tribunal, that the Industrial Tribunal has rightly come to the conclusion while deciding on all the three said issues against the petitioner. Even the judgment relied upon by the petitioner in support of his case in the case of Kheda District Central Co-Op. Bank Ltd. v. Bhargav Balvantraai Vyas, reported in 1984 GLH Page 379 as well as in the case of Workmen of American Express International Banking Corporation V. Management of American Express International Banking Corporation, reported in AIR 1986 S.C. 458 would not render much assistance to the petitioner, as the facts in the present case are quite different from the facts of those judgments. I am, therefore, of the view that there is no infirmity in the order passed by the Industrial Tribunal and I do not think it proper to interfere with the reasoning as well as the finding given by the Industrial

Tribunal. The petition is, therefore, rejected. Rule is discharged with no order as to costs.

rmr. [K.A. Puj, J.]