

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10641 of 1999
with
SPECIAL CIVIL APPLICATION No 10643 of 1999
with
SPECIAL CIVIL APPLICATION No 3126 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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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 concerned : NO
Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals?

AHMEDABAD NEW COTTON MILL CO LTD

Versus

YASHWANTLAL N JANI

Appearance:

1. Special Civil Application Nos. 10641 & 10643 of 1999
with Special Civil Application No.3126 of 2002
M/S TRIVEDI & GUPTA for Petitioner No. 1-2
MR KV GADHIA for Respondent No. 1
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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 26/12/2003

ORAL JUDGEMENT

Since common point is involved in all these petitions, the same are disposed of by this common judgement.

2) So far as Special Civil Application No.10641/1999 is concerned, the respondent-workman had preferred an application being Application No.95/1998 before the Authority under the Gratuity Act. The authority came to the conclusion that the respondent herein was entitled to Rs.15,371.42 ps. towards gratuity, out of which he was paid Rs. 5,686/- and therefore, he was entitled to get Rs.9,685.43 ps. The said order of the authority was also confirmed by the appellate authority.

3) So far as Special Civil Application No.10643/1999 is concerned, the respondent-workman had preferred an application and the authority has directed to pay Rs.69,242.79 ps. The appellate authority came to the conclusion that since the department had paid Rs.25,176/-, the respondent is entitled to get the remaining amount of Rs.44,066.79 ps.

4) So far as Special Civil Application No.3126/02 is concerned, the authority under the Act passed an order by which the petitioner management was directed to pay Rs.27,349/- towards arrears of gratuity with 10% simple interest.

5) In all these matters, the petitioners have challenged the order of Gratuity Authority as well as the order passed by the Appellate Authority. According to the management, the respondents were re-employed after giving voluntary resignation and therefore, for subsequent period they are not entitled to get the gratuity amount. It has been pointed out by Mr.Gadhia that so far as Special Civil Application No.10641/1999 is concerned, entire amount is already paid by the management to the workman in view of the interim order passed by this Court. So far as Special Civil Application No.10643/1999 is concerned, about 50% amount, i.e. Rs.23,000/-- is paid to the concerned workman and so far as Special Civil Application No.3126/2002 is concerned, nothing is paid to the respondent-workman. Point involved in all these matters is whether the respondents are entitled to gratuity amount by virtue of their so called reemployment. This Court has already dealt with this point in a group of matters being Special Civil Application No.1299 of 2002 with Special Civil Application Nos.1300 to 1310/2002 & Special Civil Application Nos.3111 to 3114/2002. It has been pointed

out by both the sides that point involved in all these matters is identical to the point involved in above group of matters and hence, these petitions are required to be disposed of in view of judgement rendered in above group of matters.

6) In view of the judgement rendered in Special Civil Application No.1299/2002 and other cognate matters, these petitions are required to be dismissed. All these petitions are accordingly dismissed. Rule is discharged. Interim relief stands vacated. No order as to costs.

7) So far as respondents of Special Civil Application No.10643/1999 and Special Civil Application No.3126/2002 are concerned, whatever amount they are entitled to, the authority may disburse the same to the concerned respondents as per the calculation of the appellate authority.

8) If any excess amount is deposited by the petitioner company, naturally, the same is required to be refunded to the petitioner company. The authority shall consider this aspect at the time of disbursing the amount in question.

(P.B.Majmudar,J.)

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