

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 288 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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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?

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

BIPINCHANDRA SHANKERLAL ROHIT

Appearance:

1. Special Civil Application No. 288 of 2003
MR ASHISH M DAGLI for Petitioner No. 1
MR AM PAREKH for Respondent No. 1
RULE SERVED for Respondent No. 2
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CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 07/05/2004

ORAL JUDGEMENT

With the consent of parties the matter is taken
up for final hearing today.

2. Upon hearing the learned advocates for parties, it appears that there is no dispute on the point that earlier reference which is impugned in this petition is at a show cause notice stage and there is also no dispute on the point that after the stay granted by this court on 17.2.03 final order of dismissal is passed on 27.2.03 and not only that but the approval to the order of dismissal is also granted under section 33(2) of I.D.Act as per order dated 8.4.03 passed by the Asst.Labour Commissioner, Surat and as a result thereof the services of the respondent workman is terminated. Mr.Parekh, Ld.counsel appearing for the petitioner submitted that as such for challenging the order of termination, the respondent workman had preferred SCA No.3151/03 before this court and in the said petition this court (Coram:H.K.Rathod,J) did not entertain the grievance of the respondent workman on the ground that there is alternative remedy of departmental appeal available to the respondent workman. Mr.Parekh for the respondent workman is not aware as to whether the respondent workman has preferred any appeal pursuant to the said order dated 21.4.03 passed by this court in SCA No.3151/03.

3. Under the above circumstances, it is apparent that earlier reference which was at a show cause notice stage would be rendered infructuous, since final order of dismissal has been passed. At the most, if the respondent workman is aggrieved by the action of dismissal he may pursue the alternative remedy or he may raise dispute under I.D.Act against the dismissal.

4. Under the above circumstances, the reference made by the Dy.Labour Commissioner, Surat as per decision dated 5.8.02 (annexure "C") is quashed as having become infructuous.

However, it is clarified that the quashing of reference by this court would not prejudice the right of the respondent workman to raise the dispute and to raise contentions which may be available under law against the order of dismissal dated 27.2.03.

5. Petition is disposed of accordingly. Rule is discharged. In view of the facts and circumstances, there shall be no order as to costs.

