

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5319 of 2000

With

SCA No. 5321/2000 and 5314/2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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GAYATRI BHAVAN HOTEL - Petitioner(s)

Versus

JAYANTIBHAI BHAILAL SONVANE - Respondent(s)

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Appearance :

MR NILESH A PANDYA for Petitioner No(s): 1.

MR DHARMENDRA PARIKH for Respondent No(s): 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 30/06/2005

ORAL JUDGEMENT

1. This above matters were on board on 22nd and then 24th June 2005, but none appeared for the respondents. Therefore as a last chance the matter was adjourned to 30th June 2005. Today even in the third round none appears for the respondent. Therefore the matter is taken up for hearing today.

2. The case of the petitioner is as under:

2.1 The petitioner Gayatri Bhavan Hotel is a partnership firm and is running the said hotel opposite Railway Station, Vadodara and the respondents were working with the petitioner Hotel. According to the petitioner subsequently respondents voluntarily left their services from the petitioner hotel and has joined services in another hotel. Thereafter the respondents raised industrial dispute before the Assistant Labour Commissioner, Vadodara on the ground that the petitioner has terminated the services of the respondents. The Labour Commissioner referred the dispute to Labour Court. Ultimately the Labour Court allowed the references and directed the petitioner to reinstate respondent workman with full backwages.

3. Mr. Pandya for the petitioner submitted that the petitioner could not appear before the Labour Court and therefore an ex parte award has been passed and though an application was preferred to set aside the same, in view of the fact that the present petition has been filed the said application has been withdrawn. Mr. Pandya further submitted that the respondents had voluntarily left the service of the petitioner and have already joined service in another hotel and therefore there was no question of terminating their services. He further submitted that the petitioner had produced positive evidence on record which was not considered by the Labour Court. According to learned counsel, the respondents are already working with one Regal Hotel and this fact was also not taken into consideration by the Labour Court.

4. I have perused the impugned relevant record. Admittedly the award in question is an ex parte award. It also appears that the Labour Court has not considered the evidence which are on record while passing the award in question. Therefore, in the interest of all concerned, I am of the view that the matter is required to be decided afresh in view of the aforesaid contentions and therefore the impugned order is required to be quashed and set aside.

5. Accordingly the petitions are allowed. The impugned awards of the Labour Court are therefore quashed and set aside. The matters are remanded to the Labour Court for fresh decision and if the respondents have already obtained another employment then appropriate orders will be passed. Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.]

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