

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9806 of 1995

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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GSRTC - Petitioner(s)  
Versus  
VALABHAI DEVABHAI - Respondent(s)

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Appearance :

MR YOGESH S LAKHANI for Petitioner No(s).: 1.  
MR VIJAY H PATEL for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 30/06/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 29<sup>th</sup> July, 1995 passed by the Labour Court, in Reference [L.C.J.] No. 1559 of 1990 whereby the Labour Court while partly allowing the Reference has directed the petitioner Corporation to reinstate the respondent workman with

continuity in service and without back wages considering the period of difference as leave without pay.

2. The short facts of the case are that the respondent workman was initially employed as Off Duty Reliever to the post of Watchman. The respondent workman was terminated from the service vide order dated 21.9.1989 on the ground that he was found sleeping during the night round.

2.1. Being aggrieved by the order of dismissal, the respondent workman raised an industrial dispute which was ultimately referred to the Labour Court for adjudication. The Labour Court after appreciating the materials placed before it, partly allowed the Reference with the aforesaid directions. Hence, this petition.

3. Mr. Lakhani learned advocate for the petitioner has contended that the Labour Court have erred in appreciating the fact that the respondent workman has no right to claim continuity in service in view of the fact that the respondent workman was employed as off duty Reliever Watchman. Therefore, the order passed by the Labour Court is illegal and is required to be quashed and set aside.

4. I have gone through the relevant documents on record. As a result of this, I am of the opinion that the Labour Court has in the operative part of the award has given cogent and convincing reasons for reinstating the

respondent workman. Even otherwise in view of the order of this Court the respondent workman has been in service all these years and it would not be in the interest of justice to disturb the same at this stage.

5. In the premises aforesaid, I am of the opinion that the award passed by the Labour Court is just and proper and no interference is called for by this Court. Hence, the petition is rejected. Rule is discharged. Interim relief if any, stands vacated.

**[K.S. JHAVERI, J.]**

/phalguni/