

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**LETTERS PATENT APPEAL No. 65 of 2008**

**In**

**SPECIAL CIVIL APPLICATION No. 23269 of 2006**

**With**

**CIVIL APPLICATION No. 770 of 2008**

**In**

**LETTERS PATENT APPEAL No. 65 of 2008**

**In**

**SPECIAL CIVIL APPLICATION No. 23269 of 2006**

**For Approval and Signature:**

**HONOURABLE MS. JUSTICE R.M.DOSHIT**

**HONOURABLE MR.JUSTICE K.M.THAKER**

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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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**ALEMBIC EMPLOYEES CO.OP.SUPPLY SOCIETY LTD - Appellant(s)**

**Versus**

**VIKRAMSINH RAMSINH ATALIA - Respondent(s)**

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**Appearance :**

MR SJ SHAH for Appellant(s) : 1,

MR JM BAROT for Respondent(s) : 1,

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**CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT**

**and**

**HONOURABLE MR.JUSTICE K.M.THAKER**

**Date : 31/03/2008**

**ORAL JUDGMENT**

**(Per : HONOURABLE MS. JUSTICE R.M.DOSHIT)**

Heard the learned advocates. With the consent of the learned advocates, the Appeal is heard and decided today.

This Appeal, preferred under Clause 15 of the Letters Patent, arises from the order dated 13<sup>th</sup> August, 2007 made by the learned Single Judge pending the above Special Civil Application No.23269 of 2006.

By impugned order, the learned Single Judge has directed the appellant - employer to pay to the workman full wages last drawn by him inclusive of maintenance allowance, if any, under the service rules with effect from 27<sup>th</sup> July, 2006 to 3<sup>rd</sup> July, 2007 and to continue to pay such full wages.

Mr. Shah has submitted that the appellant - employer does not dispute its liability to pay to the workman last wages drawn by him pending the writ petition, however, the dispute is confined to the direction to pay such wages for the period from 27<sup>th</sup>

July, 2006 to 3<sup>rd</sup> July, 2007. He has submitted that before the Labour Court, it was proved that the workman was gainfully employed. The Labour Court, therefore, did not award backwages to the workman. Nevertheless, before the learned Single Judge, the workman has filed affidavit on 3<sup>rd</sup> July, 2007 to the effect that he was not gainfully employed. In absence of any proof of employment, the appellant could not deny its liability to pay such wages from the date the workman made the affidavit as aforesaid. However, the appellant is not under an obligation to pay the wages from the date of the award by the Labour Court till the date the workman made the affidavit of his not being gainfully employed.

Mr. Barot admits that affidavit as aforesaid was made on 3<sup>rd</sup> July, 2007. He also agrees that the appellant has paid the full wages last drawn by the workman for the period from 1<sup>st</sup> July, 2007 till the date.

In above view of the matter, the Appeal is allowed. The impugned order dated 13<sup>th</sup> August, 2007

made by the learned Single Judge is modified to the extent that the appellant - employer will continue to pay full wages last drawn by the workman from 1<sup>st</sup> July, 2007. The order to pay such wages for the period from 27<sup>th</sup> July, 2006 till 3<sup>rd</sup> July, 2007 is set aside. Civil Application stands disposed of. The sum of Rs.4,000/- deposited in the registry be remitted to the respondent workman by way of cost of this Appeal.

(Ms. R.M.Doshit, J.)

(K.M.Thaker, J.)

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