

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 7913 of 2005****FOR APPROVAL AND SIGNATURE:****HONOURABLE 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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AHMEDABAD MUNICIPAL CORPORATION....Petitioner(s)

Versus

DHANJIBHAI JIVANSING C/O. AHMEDABAD MUNICIPAL
CORP.....Respondent(s)

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Appearance:

MR SATYAM Y CHHAYA, ADVOCATE for the Petitioner(s) No. 1

MR MB GANDHI, ADVOCATE for the Respondent(s) No. 1

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CORAM: HONOURABLE MR.JUSTICE KS JHAVERI

Date : 28/02/2013

ORAL JUDGMENT

By way of this petition, the petitioner has challenged the judgement and award dated 9.9.2004 passed by the Industrial Tribunal in Reference (IT) No. 350 of 1997 whereby the Tribunal set aside the suspension order dated 12.2.1997 and directed the petitioner to make payment for the suspension period of the respondent.

2. The facts of the case, in short, are that the respondent was working as driver in the Fire Brigade Department of the petitioner Corporation. On 22.7.1993, he came in the office on inebriated condition and he drove hearse under the influence of intoxication causing accident to four passersby on the road. The respondent was suspended from service. Charge sheet was issued to him in regard to the accident. Departmental inquiry was also initiated against the respondent.

2.1 The Inquiry Officer, after completion of inquiry, found the allegations levelled against the respondent not proved. However, the Disciplinary Authority did not agree with the findings of the Inquiry Officer and ultimately passed order of suspension and further to stop two increments with permanent effect.

2.2 Against the order of suspension, the respondent preferred Reference before the Industrial Tribunal which passed the award as aforesaid. Hence the petitioner is before this Court.

3. Learned counsel for the petitioner has contended that the Inquiry Report was in favour of the respondent. However, the Disciplinary Authority did not agree with the report of the Inquiry Officer and issued notice to the respondent. Thereafter, the authority passed suspension order

on 12.2.1997. However, pursuant to the application given by the respondent where he had shown his family circumstances and in view of the recommendation of the superior officers, the respondent was taken on service. The authority, in lieu of dismissal of the respondent, imposed penalty of stoppage of two increments with future effect and his suspension period is not to be regularized. However, the Tribunal set aside the said order by the impugned award. Hence interference with the order of the Tribunal is warranted.

4. Learned counsel for the respondent has supported the order of the Tribunal and submitted that no interference with the order of the Tribunal is required.

5. I have heard learned counsel for the parties. Considering the evidence on record, the view taken by the Industrial Tribunal is just and proper. No interference is called for with the same. Hence the petition is dismissed. Rule is discharged. No order as to costs.

(K.S. JHAVERI, J.)

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