
(2010) 08 GUJ CK 0175
In the Gujarat High Court
Case No : S.C. Application No. 14678 of 2007

Amreli Nagar Palika

APPELLANT

Vs

Lalitkumar K. Pandya

RESPONDENT

Date of Decision : 05-08-2010

Acts Referred:

Gujarat Municipalities Act, 1963 — Section 258(1)
Industrial Employment (Standing Orders) Act, 1946 — Section 13, 13A

Citation : (2010) 127 FLR 1084

Hon'ble Judges : K. S. Jhaveri, J

Bench : Single Bench

Advocate : P.V. Hathi, for the Appellant; Y.N. Ravani, for the Respondent

Judgement

K.S. Jhaveri, J.—In this petition, the petitioner has challenged an order dated 5.5.2001 passed by the Labour Court, Amreli passed in I.E.S.O. No. 19 of 1998 holding, inter alia, that the provisions of Industrial Employment (Standing Orders) Act, 1946 are applicable to the petitioner Municipality.

2. The respondent who was daily wager and working with the petitioner-Nagaqalika and getting fixed salary. had made an application to the Labour Court, Rajkot u/s 13-A of the Industrial Employment Standing Orders Act for getting status of permanent servant. After adjudicating the matter, the Labour Court vide its award dated 5.5.2001 decided the status of the respondent as a permanent employee u/s 13 of the Industrial Employment Standing Order Act, 1946 read with Rule 3(2)(a) of the Schedule I of Bombay Industrial Employment Standing Order, 1959 and the said award was not in know of the office bearers or the office of the Nagarpalika for number of years. The respondent made an application to give effect to the award after lapse of five years and the then President of Nagarpalika decided to implement the said award of 2001 by passing a resolution in the month of March, 2006 which order is under scrutiny u/s 258(1) of the Gujarat Municipalities Act by the Collector, Amreli and the said proceedings are pending and the resolution of the Nagarpalika is not given effect

to so far.

3. Heard learned Advocates for the respective parties.

4. Mr. Hathi, learned Advocate for the petitioner-Nagarpalika submits that the petitioner is a local authority and in view of the definition of the term "Industrial Establishment" contained u/s 29(e), provisions of the Act would not be applicable to the petitioner. He also raised contention that Municipality is not covered in the industrial dispute. In that view of the matter, the award of the Labour Court is without jurisdiction and the same is required to be quashed and set aside.

5. Looking to the above facts, I am of the view the contention with regard to the non-application of provisions of Standing Order Act, the municipality has not chosen not to object on the aspect of the non-application of Standing Order Act and jurisdiction of the Labour Court is not raised before the Labour Court. Hence, the contention of the learned Advocate with regard to the non-application of provisions of Standing Order Act and with regard to jurisdiction cannot be accepted. The petition is therefore dismissed.

6. However it is observed that it will be open for industrial dispute before the Labour Court. The Labour Court after considering the same, will decide the same in accordance with law. The petition stands disposed of. Rule is discharged with no order as to costs.