

(2023) 01 GUJ CK 0012

In the Gujarat High Court

Case No : R/Special Civil Application No. 11548 Of 2008

Barad Vajesing Rambhai

APPELLANT

Vs

Gujarat Heavy Chemicals Ltd

RESPONDENT

Date of Decision : 03-01-2023

Acts Referred:

Industrial Disputes Act, 1947 — Section 2(s), 2(oo)(bb), 25F, 25G, 25H

Citation : (2023) 01 GUJ CK 0012

Hon'ble Judges : Aniruddha P. Mayee, J

Bench : Single Bench

Advocate : TR Mishra, Trivedi, Gupta

Final Decision : Dismissed

Judgement

Aniruddha P. Mayee, J

1. The present Special Civil Application impugns the judgment and order dated 24.4.2008 in Reference (LCA) No.100 of 2001 passed by the learned Labour Court, Amreli.

2. The factual matrix in the present Special Civil Application is as under:-

2.1 The petitioner completed the course of training in Fitter Trade under the Apprenticeship Act, 1961 from 31.10.1994 to 30.10.1995. Accordingly, the respondent company awarded him the requisite certificate on completion of such apprenticeship training.

2.2 By letter dated 10.10.1997, the petitioner was offered to undertake training in the respondent company as trainee technician on certain terms & conditions.

2.3 By letter dated 3.11.1999, the management of the respondent company decided to extend the training period of the petitioner for a further period of 6 months from 3.11.1999 to 3.5.2000.

2.4 That thereafter, by letter dated 26.4.2000, the respondent company decided

to discontinue the services of the petitioner w.e.f. 3.5.2000.

2.5 Aggrieved by the discontinuation, the petitioner preferred a dispute before the Assistant Labour Commissioner, Junagadh, who by order dated 23.3.2001, made a reference to the learned Labour Court, Amreli as to whether the petitioner was entitled for reinstatement and back wages.

2.6 The learned Labour Court was pleased to frame the following issues:-

1. Whether the workman was covered by the definition of Section 2(s) of the Industrial Disputes Act?
2. Whether the workman was relieved in accordance with law and was the same justified?
3. Whether the workman is entitled to relief as prayed for?

2.7 Both the parties led evidence oral as well as documentary in support of their case. By the impugned judgment and order dated 24.4.2008, the learned Presiding Officer, Labour Court, Amreli was pleased to dismiss the reference (LCA) No.100 of 2001.

Aggrieved, the petitioner has preferred the present Special Civil Application.

3. Mr. Umesh Mishra, learned advocate for Mr. T.R.Mishra, learned advocate for the petitioner, submits that the learned Labour Court has erred in classifying the case of the petitioner under Section 2(oo)(bb) of the Industrial Disputes Act, 1947 ["ID Act" for short]. He submits that by letter dated 10.10.1997, the petitioner was appointed in the respondent company on certain terms & conditions and that the petitioner was on probation in the said company. He submits that instead of confirming the services of the petitioner, the management discontinued the services of the petitioner after the completion of the extension period. He submits that the appointment as trainee technician was an eye wash and that for all purposes, the petitioner was appointed on regular establishment. He submits that, therefore, the action taken by the respondent company terminating the services of the petitioner without payment of retrenchment compensation was in violation of Section 25F of the ID Act. He submits that the learned Labour Court ought to have appreciated that in the present case, Section 25F of the ID Act was applicable and the termination of the services of the petitioner was illegal and that he is entitled to reinstatement with full back wages and continuity of service. He, therefore, submits that the impugned judgment and order be set aside and the petitioner be granted reinstatement along with full back wages and continuity of service.

4. Per contra, Ms. Nancy Soni, learned advocate, appearing with Mr. Paritosh Gupta, learned advocate appearing on behalf of M/s. Trivedi & Gupta for the respondent company, submits that the offer given to the petitioner was contractual in nature and that the same comes to an end in terms of the contract. She would, therefore, submit that the learned Labour Court has

properly appreciated the offer of training and appropriately held that the provisions of Section 2(oo)(bb) of the ID Act are applicable. She submits that no interference is called for in the impugned judgment and order and the present Special Civil Application be dismissed.

5. Heard learned counsels for the parties and perused the documents and evidence on record.

6. The letter dated 10.10.1997 appointing the petitioner as a trainee technician to undertake training is admitted along with the terms & conditions therein. The terms & conditions in the said letter read as follows:-

"2.0 You will be under training for a period of two years from your date of joining. If your progress, performance and discipline will not be found to be satisfactory the training period shall be liable to be extended or dispensed with purely at the discretion of the Management.

3.0 a) On successful completion of your training, you may be put on probation for 12 months in a suitable grade provided suitable vacancy exist. Otherwise you will automatically stand relieved. On satisfactory completion of your probationary period on the extended probationary period, as the case may be, you will be confirmed in the services of the company in writing and as a regular employee you will be governed by the rules and regulations of the company as applicable to other employees of your category."

6.1 It is not in dispute that after the period of 2 years, the petitioner was granted an extension of his training period for a further period of 6 months till 3.5.2000 and thereafter, his training came to be discontinued.

6.2 Mr. Mishra, learned advocate submitted that the said letter offering training as a trainee technician was an eye wash and it was in all terms & conditions regular appointment.

6.3 The said contention cannot be accepted. A bare perusal of clause 3.0 of the said letter stipulates that on successful completion of training, he may be put on probation for a period of 12 months in a suitable grade provided suitable vacancy exist. Further, it stipulates that on satisfactory completion of the probation, he would be confirmed in service of the company in writing as a regular employee.

7. In the present case, admittedly, the petitioner's services were discontinued after completion of training. He was not put on probation in a suitable grade against the existing vacancy. Further, there is no letter offering and confirming his services with the respondent company in writing.

8. In view thereof, the learned Labour Court has rightly come to the conclusion that Section 25F, 25G and 25H are not applicable in the present case since the training came to an end in terms of the offer letter. Further, learned Labour Court has rightly relied on Section 2(oo)(bb) of the ID Act to hold that in the present case, there is no retrenchment since the termination of the services of the

petitioner was as a result of non-continuation of the contract between the parties.

In view of the aforesaid observations, the present Special Civil Application is devoid of merits and needs no interference. The impugned judgment and order passed by the learned Labour Court, Amreli is just and proper in the facts and circumstances of the present case. The present Special Civil Application is, accordingly, dismissed. Rule is discharged. No order as to costs.