

(2003) 02 GUJ CK 0004

In the Gujarat High Court

Case No : Special Civil Application No. 6178 of 1988

Baroda Municipal Corp.

APPELLANT

Vs

Chandravadan L. Prajapati

RESPONDENT

Date of Decision : 01-02-2003

Acts Referred:

Citation : (2003) 02 GUJ CK 0004

Hon'ble Judges : J.N. Bhatt, J

Bench : Single Bench

Advocate : Pranav G. Desai, for the Appellant; Mukesh R. Shah, for the Respondent

Final Decision : Partly Allowed

Judgement

J.N. Bhatt, J.—A short question, which requires to be examined and adjudicated upon in this petition, is as to whether the award of the Labour Court, Vadodara dated 16.11.1987 in Reference [L.C.V.] No.4/1980, directing the appellant to reinstate the respondent-workman with full back wages is justified or not?

2. After taking into consideration the factual profile, the submissions and the relevant proposition of law, the respondent-workman, who is working since 1977 came to be terminated in 1979, without observing requisite statutory procedure, though the respondent-workman has served for 10 years before he came to be terminated. His juniors on temporary basis are made permanent. It is also found from the record and the award that the workman had worked for more than 240 days before the termination order came to be passed against him. No justification is successfully pointed out from the record that the termination was in accordance with law. In the opinion of this Court, considering the text, tenor and the texture of the impugned order of the Labour Court and the factual profile, the termination order is rightly held to be illegal and invalid. Therefore, the direction of the Labour Court, in the impugned award to reinstate the respondent-workman cannot be said to be illegal or invalid and therefore, it has rightly been quashed and set aside and reinstatement is directed by the Labour

Court.

3. In so far as the question of backwages issue is concerned, it may be noted that considering the length of period, till this date and the facts and circumstances of the case coupled with the latest proposition of law, it would not justify the order of full back wages. In view of the peculiar facts and circumstances of the case emerging from the record of the present case, the 50% backwages direction will be justified. Therefore, the respondent-workman shall be entitled to reinstatement and the backwages to the extent of 50% and not 100% as directed by the Labour Court in the award. Obviously, therefore, the appeal shall stand partly allowed. The impugned order shall stand modified to the aforesaid extent only. Rule made absolute accordingly.