

**(2004) 08 GUJ CK 0078**  
**In the Gujarat High Court**

**Case No :** Civil Application No. 5624 of 2004 in Special Civil Application No. 11309 of 2002

Bipinchandara Bhavanbhai Patel

APPELLANT

Vs

Manager, Valsad District Central Co-Operative Bank Limited

RESPONDENT

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**Date of Decision :** 09-08-2004

**Acts Referred:**

Industrial Disputes Act, 1947 — Section 33A

**Citation :** (2004) 08 GUJ CK 0078

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

**Bench :** Single Bench

**Advocate :** P.S. Chari, in Civil application No. 5624 of 2004, for the Appellant;  
A.K. Clerk in Civil Application No. 5624 of 2004, for the Respondent

**Final Decision :** Allowed

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## Judgement

J.N. Bhatt, J.—Rule. Service of notice of rule is waived by Mr.A.K.Clerk, learned Advocate, on behalf of the opponent.

2. The prayer in this Civil Application is relatable to stopping the Departmental Inquiry proceedings in respect of allegation of not reporting to place or premises of the transferred Bank at Ahwa from Valsad. Of course, the respondent-Bank's case is that the impugned order, before the Tribunal in a Complaint (I.T.C.) No.72 of 2000 pending the Reference (I.T.C.) No.31 of 1999, is not as such an order of transfer, but a direction to the applicant, who is a General Secretary of the Employees Union of the Bank, to work on deputation at Ahwa Branch of the Bank and do whatever is assigned to him by the higher officers of that Branch.

3. But for the fact that the main Writ Petition, S.C.A.No.11309 of 2202 is pending and awaiting judicial adjudication, the earlier order of this Court is directed to maintain the status quo on the subsequent initiation of the Departmental Inquiry for not resuming the work at the place, where the applicant - original respondent in the petition - is directed to work on deputation and the petition is directed

against the award of the Industrial Tribunal at Surat, whereby the Complaint made by the employee of the Bank - applicant herein - succeeded and whereby the impugned order of the management of the Bank is quashed and set aside while allowing the Complaint u/s 33A of the Industrial Disputes Act, 1947.

4. The impugned order of transfer or deputation dated 08-11-2000, directing the employee to work on deputation at Ahwa Branch of Bank is held to be illegal, mala fide and with the intention to victimise and, therefore, the Tribunal held it to be contrary to the provisions of Section 33A of the Industrial Disputes Act, 1947, and declared it to be null and void with the cost of Rs.2000/= and that award came to be passed on 09-10-2002.

5. Without entering into a deeper probe and meticulous evaluation, this order is being passed after having heard the learned Advocates for the parties and considering the factual profile of the case, coupled with the content and colour of the impugned order of the Tribunal as well as our ambiguous order of status quo and the basic principles governing the grant or refusal of the interlocutory order and more so, when Departmental Inquiry proceedings are sought to be intercepted.

6. In the peculiar facts and circumstances, the application deserves to be allowed, directing the opponent - original Petitioner-Bank - to not to proceed with departmental actions proposed and challenged in this application until the disposal of the main petition, which is directed to be expedited.

7. Office is, therefore, directed to place the main Writ Petition for consideration and final adjudication in the fourth week of September 2004 and in case the matter is not heard or adjudicated upon by the end of September 2004, it will be open for the parties to appropriately move this Court for fixing the next date out of turn on priority. Accordingly, the Civil Application, shall stand allowed without any order as to costs. Rule made absolute.