

(2013) 01 GUJ CK 0085
In the Gujarat High Court

Case No : Special Civil Application No. 753 of 2003

D G P Windsor India Ltd.

APPELLANT

Vs

Mahendrakumar R Modi

RESPONDENT

Date of Decision : 15-01-2013

Acts Referred:

Citation : (2013) 01 GUJ CK 0085

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

Bench : Single Bench

Advocate : K.M. Patel, for the Appellant; U.T. Mishra, Advocate for the Respondent(s) No. 1, for the Respondent

Judgement

Honourable Mr. K.S. Jhaveri, J.—The petitioner company by way of filing the present petition has prayed to quash and set aside the judgment and order dated 21.12.2002 passed by the Labour Court, Ahmedabad in Recovery Application No. 418 of 2002 whereby the Labour Court allowing the recovery application directed issuance of recovery certificate of Rs. 11,40,000/- as claimed in the application. It is the case of the petitioner company that all the workmen employed by the petitioner, at the relevant time, were drawing wages exceeding Rs. 3500/- per month since many years. As a gesture of goodwill and for maintaining cordial industrial relations, the petitioner paid ex-gratia amount of Rs. 6000/- to the respondent workmen for some years when the financial position permitted it to make such payment. It is the case of the petitioner company that thereafter the company started making loss and therefore could not pay the said amount as ex-gratia bonus. Instead considering the expectations of the workmen the petitioner informed the workmen that it will make payment of exgratia bonus of Rs. 2500/-. The respondent as Secretary of the Union and purporting to represent all the workmen of the factory filed Recovery Application No. 418/2002 before the Labour Court. The Labour Court after hearing the parties passed the aforesaid order.

2. Mr. K.M. Patel, learned Senior Counsel appearing with Mr. Varun K. Patel for

the petitioner submitted that in fact the respondent workers were not covered under the Bonus Act in view of the fact that the salary was more than the minimum required. He submitted that since the company's financial position was deteriorating and was likely to be referred to the BIFR, it is not even justified on the part of the employees to insist for exgratia payment of bonus. He submitted that the maximum amount under the act was Rs. 2500/- as bonus. He submitted that the impugned order deserves to be quashed and set aside. In support of his submissions, Mr. Patel has relied upon a decision of the Apex Court in the case of Bachi Singh and Another Vs. Union of India and Others, .

3. Mr. Mishra, learned advocate appearing for the workmen supported the order passed by the Labour Court and submitted that no interference is called for in the same.

4. This Court on 05.05.2003 passed the following interim order:

Heard Mr. KM PATEL, learned advocate for Petitioner and MR. TR MISHRA for Respondent. I have considered the averments made in this petition. I have also considered the submissions made by the learned advocates for the parties as well as the page 39 which is the relevant Understanding between the parties. According to my opinion, the questions raised in this petition would require consideration. Hence, Rule. Ad-interim relief in terms of para 12(B) of the petition on a condition that the petitioner shall pay to each of the respondents workmen an amount of Rs. 4000.00 (Rupees four thousand only) within four months from the date of receipt of copy of this order. Notice as to IR returnable on 24th July, 2003. Learned advocate Mr. Mishra appearing for the workmen has waived service of rule as well as the notice as to interim relief on behalf of the respondents workmen.

5. Considering the facts and circumstances of the case, this Court is of the view that considering the fact that by way of ad-interim relief when this Court directed payment of Rs. 4000/-, this court does not think it fit to modify the same and disturb the situation which has been prevailing for these many years. This court is, therefore, of the view that interest of justice will be served if the parties are directed to abide by the interim relief granted by this Court and therefore the petition is required to be disposed of on the terms of the interim order. In the premises aforesaid, petition is partly allowed. The parties shall be governed by the order dated 05.05.2003 passed by this Court in this petition and accordingly pay Rs. 4000/- which has been stated to be already paid pursuant to the interim order dated 05.05.2003. The impugned order passed by the Labour Court is substituted accordingly. Rule is made absolute to the aforesaid extent.