

(2019) 07 GUJ CK 0161

In the Gujarat High Court

Case No : R/Special Civil Application No. 14769 Of 2010

Dhoraji Municipality

APPELLANT

Vs

Vallabhbhai Laljibhai Vaghasiya

RESPONDENT

Date of Decision : 22-07-2019

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2019) 07 GUJ CK 0161

Hon'ble Judges : G.R. Udhwani, J

Bench : Single Bench

Advocate : Premal R Joshi

Final Decision : Partly Allowed

Judgement

Judgment and award dated 06/04/2010 rendered in Reference (LCR) No.276 of 1996 by the Labour Court, Rajkot awarding reinstatement with continuity of service to the workman-respondent herein who has not appeared and contested this matter despite two opportunities having been given, is sought to be assailed in this petition under Article 227 of the Constitution of India principally on the ground that the tenure of the service of the workman would justify no relief other than compensation even if the case by the workman was made out.

Having considered the submissions made by the learned Counsel for the petitioner, it appears that the respondent-workman was not appointed in accordance with the recruitment procedure and he was merely a daily wager having served for only four or five years. Thus, in view of the settled legal position that reinstatement would not be automatic in the event the action of the employer is faulted with, more particularly, when the person is not a permanent employee; but only a daily wager or ad- hoc appointee, there would be no lien on the post; nor other rights akin to regular appointee would flow from such appointments. In such cases, it is settled law that the reinstatement must be avoided even if the case for breach of Section 25-F is made out. The impugned award is made overlooking the settled legal position as above and therefore to

the said extent, it cannot be sustained. The award is therefore required to be modified.

The workman was employed for five years admittedly for daily wage of Rs.44/- per day; therefore can be compensated by paying him Rs.50,000/- (Rupees Fifty Thousand Only). Accordingly, the impugned award is modified and it is directed that petitioner shall pay compensation in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the respondent-workman within a period of eight weeks from the date of the receipt of the writ of this order; failing which the said amount shall fetch interest at the rate of 6% per month from the date of default. Accordingly, the petition is partly allowed.