

(2014) 09 GUJ CK 0005

In the Gujarat High Court

Case No : Special Civil Application No. 5673 of 2014

Dilipbhai Maneklal Vyas

APPELLANT

Vs

Torrent Power Limited

RESPONDENT

Date of Decision : 10-09-2014

Acts Referred:

Citation : (2015) 1 LLJ 367

Hon'ble Judges : Paresh Upadhyay, J

Bench : Single Bench

Advocate : Mihir Joshi, Senior Advocate, M/s. Trivedi and Gupta, Advocate,
Paritosh Calla, Advocate for the Respondent

Judgement

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Paresh Upadhyay, J.—Challenge in this petition is made by the employee to the common order passed by the Industrial Court, Ahmedabad in Appeals (IC) No. 15 of 2012 and No. 04 of 2013 dated 10.01.2014. The said appeals were against the order passed by the Labour Court, Ahmedabad in T. Application No. 88 of 2011 dated 23.03.2012. Appeal No. 15 of 2012 was filed by the employee and Appeal No. 04 of 2013 was filed by the employer.

2. The initiation of the present proceedings before the Labour Court [in T. Application No. 88 of 2011] was pursuant to the order of Honourable the Supreme Court of India in SLP (Civil) Nos. 24173 - 24174 of 2007 dated 26.08.2011 [which is quoted in para: 7.5 below]. The subject matter of the said SLPs was the judgment and order passed by this Court, in Special Civil Application No. 2113 of 2003 dated 13.01.2006, and in Letters Patent Appeal No. 1205 of 2006 dated 18.06.2007. The subject matter before this Court in the said petition and the appeal was the orders passed by the Labour Court and Industrial Court, pertaining to an issue, as to whether the action of the employer of discontinuing the service of the petitioner from the post of Security Inspector [the lower post] in the year 1992, was legal or otherwise. The subject matter

before the Labour Court in the present proceedings i.e. in T. Application No. 88 of 2011 was the discontinuance of service of the petitioner vide order dated 27.02.2003, from the post of Section In-charge [the higher post], on which the employee had already cleared the probation period satisfactorily and was confirmed also way back on 29.12.1997. The employer had projected the discontinuance of service of the petitioner from the higher post of Section In-charge as the consequence of the order passed by the Industrial Court in Review Application, pertaining to the service of the petitioner on the lower post i.e. Security Inspector.

3. Heard the petitioner in person and Mr. Mihir Joshi, learned senior advocate for the contesting respondent employer. Both the sides have extensively taken this Court through the material on record, more particularly the orders passed by the Labour Court and the Industrial Court from time to time, and also that of this Court and the Honourable the Supreme Court of India, reference to which is made hereinafter.

4. It is the case of the petitioner that, the discontinuance of his service from the post of Section In-charge vide order dated 27.02.2003 was illegal on many counts. Firstly, the order of the Industrial Court pertaining to discontinuance of service of the petitioner in the year 1992 from the post of Security Inspector had no bearing on the service of the petitioner on the post of Section In-charge, on which the petitioner had not only completed the probation period satisfactorily, but was confirmed also. It is further submitted that, even no notice was given to the petitioner before terminating his service from the post of Section In-charge though he was confirmed employee on the said post. It is further submitted that, the Courts below have not examined the legality of the termination of the petitioner from the post of Section In-charge holding that, it was the consequence of upholding the discontinuance of service from the lower post of Security Inspector, which according to the petitioner, is misreading of the earlier orders passed by the Labour Court, Industrial Court, this Court, as well as Honourable the Supreme Court of India. It is submitted that, the action of the employer of discontinuing the service of the petitioner from the post of Section In-charge vide order dated 27.02.2003 be held to be illegal and consequential relief be granted to the petitioner. It is stated by him that, his date of birth is 27.11.1953 and thus, he would have attained the age of superannuation of 58 years on 27.11.2011. It is also stated that, the petitioner had served in the Indian Air Force, and least he expects dignified dealing with him. It is also submitted by him that, the employer had, at the relevant time desired that, the petitioner should resign from his post, which he had initially agreed but on realising his mistake, had withdrawn the said consent, and only that had led to the miseries for him, which have haunted the petitioner for over two decades. It is submitted that, this petition be allowed and the orders passed by the Labour Court and Industrial Court be quashed and set aside.

5. On the other hand, learned senior advocate for the respondent employer has

supported the orders passed by the Courts below. Learned senior advocate has taken this Court through the orders passed by the Courts below, more particularly the reasons recorded therein. It is submitted that, the Courts below have not committed any error and this petition be dismissed. It is submitted that, the petitioner was not entitled to any relief on the ground of delay. It is also submitted that, the petitioner was before a wrong forum and the relief, as claimed by the petitioner, could not have been granted by the Labour Court and it has rightly rejected the application of the petitioner. Reliance is placed on the decisions of this Court in the cases of Ashoka Mills Ltd., Ahmedabad Vs. Nagindas Parsottamdas Modi and Another, , and Ishwarbhai Mulchanddas Modi Vs. Vadnagar Nagrik Coop. Bank Ltd., . It is submitted that the petition be dismissed.

6. Having heard the petitioner-in-person and learned senior advocate for the respondent employer and having gone through the material on record, this Court finds as under.

6.1 The petitioner was a Sargent in the Indian Air Force, where he had served during the years 1972 to 1987.

6.2 The Ahmedabad Electricity Company invited applications for recruitment on the post of Security Inspector. For this purpose, a public advertisement was given by the Company in the month of June, 1990.

6.3 The petitioner, as an Ex-Service man was eligible for it, he applied and was called for interview on 10.11.1990. On successfully completing the selection process, the petitioner was called for medical examination vide order dated 20.11.1990 and was appointed as Security Inspector vide order dated 26.11.1990. The petitioner started working as Security Inspector from 26.11.1990.

6.4 Though the petitioner was working as Security Inspector since 26.11.1990, after more than a year, the employer issued fresh appointment order on 27.12.1991, treating the petitioner to be on probation for a period of six months, on the same post.

6.5 On 13.04.1992 i.e. after about three and a half months, the services of the petitioner came to be terminated, invoking Clause-3 of the appointment order dated 27.12.1991. The said Clause provided for discontinuance of service without notice or pay in lieu thereof, that too without assigning any reason. Thus, the said discontinuance was not on the ground that, his service was not found satisfactory during the probation period. As noted above, he was already working on the said post since 26.11.1990 and after having worked for about a year on the said post, he was treated to be on probation for a period of six months and during the said period of six months, on completion of three and a half month, his services were terminated.

6.6 The above order dated 13.04.1992 gave rise to the proceedings before the Labour Court in T. Application No. 248 of 1992. It was the case of the employee

before the Labour Court that, his appointment order dated 26.11.1990 as well as 27.12.1991 both, stipulated that Standing Order of the company will be binding on him. Thus, he was governed by the Standing Order from 26.11.1990. It was contended before the Labour Court that, his discontinuance of service was illegal. The employer did not appear to contest the proceedings. Ultimately, the application of the employee was allowed and the action of the employer of discontinuing the service of the employee was held to be illegal. The Labour Court passed order dated 26.11.1992 in this regard.

6.7 The above order of the Labour Court was passed after issuing notice to the employer, but it is the employer, who had chosen not to appear before the Labour Court and contest the proceedings and to that extent, the said order was ex-parte. In view of this, the employer gave application before the Labour Court that, he is ready to take the employee back in service, but the employer be given chance to put his case before the Labour Court, on merits. The employee agreed to it. Under these circumstances, on 16.03.1994, the order was passed by the Labour Court, Ahmedabad on Miscellaneous Application No. 223 of 1992 that the original T. Application No. 248 of 1992 be heard on merits and the question of wages during the period the employee has remained out of service, be gone into subsequently.

6.8 The employee was reinstated in service with effect from 21.03.1994. The company gave reinstatement order to the employee on 18.03.1994. The said reinstatement order provided that, at the time of discharge, the salary was Rs. 1325/- and since the service is to be treated as continuous, he was reinstated with the salary of Rs. 1475/-.

6.9 The employment continued.

6.10 In May, 1997, the employer invited applications for recruitment on the higher post of Section In-charge. The petitioner was also eligible to make application. He also applied. He was sent a call letter to remain present along with other candidates for written test and oral interview on 17.06.1997. The petitioner remained present in the said selection process and was selected. He was given appointment on the said higher post of Section In-charge with effect from 01.07.1997, vide appointment order dated 30.06.1997/07.07.1997.

6.11 The said appointment was again on a probation for a period of six months from 01.07.1997 i.e. upto 31.12.1997.

6.12 The T. Application No. 248 of 1992, with regard to the discontinuance of service of the petitioner from the lower post of Security Inspector, which was reopened by the employer in the year 1994, was still pending. In substance, except payment of wages for the interregnum period, effectively there was nothing to be adjudicated. Still the Labour Court examined the issue on merits, and vide order dated 28.11.1997 passed the final order in favour of the employee. Para: 9 of the said order records that, the action of the employer of discontinuing the service vide order dated 13.04.1992 was illegal. The Labour

Court ordered payment of wages for the interregnum period. Labour Court further recorded that, the employee was already reinstated by the company in the year 1994 itself, and therefore, no order is required to be passed for reinstatement.

6.13 The selection and appointment of the petitioner on the higher post of Section In-charge was not dependent on the outcome of the T. Application No. 248 of 1992, and in any case, now even the said application was allowed by the Labour Court holding that, the action of the employer of discontinuing the service of the employee as Security Inspector vide order dated 13.04.1992 was illegal. Additionally, the petitioner had even satisfactorily completed his probation period of six months, on the higher post of Section In-charge and therefore, on 29.12.1997 an order was passed declaring that, the petitioner was confirmed on the post of Section In-charge with effect from 01.01.1998. The said order reads as under.

"We have pleasure in advising you that, you have been confirmed on the post of Section In-charge with effect from 01.01.1998 on the same terms and conditions stated in our Letter No. AP/8/4/2365, dated 07.07.1997, your work having been found satisfactory during the probation period."

6.14 Thus on 01.01.1998, the situation was that the petitioner was already working on the higher post of Section In-charge as the confirmed employee, since his services were found to be satisfactory on the said post. Neither the appointment on the said higher post i.e. Section In-Charge was dependent on the outcome of the proceedings pertaining to the discontinuance of his service on the lower post of Security Inspector, nor the confirmation order quoted above, refers to it. And in any case, the said discontinuance of service [as the Security Inspector] was already held to be illegal by the Labour Court vide order dated 28.11.1997. There did not remain any controversy or dispute between the parties, either for the lower post of Security Inspector or for the higher post of Section In-charge, except that the employer had to pay wages to the employee for the lower post of Security Inspector for the period during which the employee had remained out of service i.e. for the period from 13.04.1992 to 16.04.1994.

6.15 The employee had no reason to take out any further litigation against his employer. However, the employer filed Appeal against the order of the Labour Court dated 28.11.1997 before the Industrial Court, Ahmedabad being Appeal (IC) No. 1 of 1998. The Industrial Court dismissed the said Appeal vide order dated 25.05.2001. The Industrial Court, in its order dated 25.05.2001, more particularly by recording reasons in para: 3 thereof, confirmed the order of the Labour Court dated 28.11.1997 on merits.

6.16 Instead of challenging the order of the Industrial Court dated 25.05.2001 before the higher forum, the employer moved Review Application No. 64 of 2001 on 20.07.2001 before the Industrial Court.

6.17 It is a matter of record that, during these two months, i.e. between

20.05.2001 and 20.07.2001, the Presiding Officer of the Industrial Court, Ahmedabad, who had recorded the order dated 25.05.2001, had changed.

6.18 On the above Review Application filed by the employer, on 20.07.2001 itself, i.e. on the date of presentation of the said Review Application, ex-parte order was passed by the Industrial Court, whereby the order of the Labour Court dated 28.11.1997 [by which the T. Application No. 248 of 1992 was allowed, after bi-partite hearing], and the order of the Industrial Court dated 25.05.2001 [by which the said order of the Labour Court dated 28.11.1997 was confirmed, that too after bi-partite hearing], both came to be stayed. Ultimately vide order dated 18.06.2002, the said Review Application was allowed and both the orders i.e. the order of the Labour Court dated 28.11.1997 as well as the order of the Industrial Court dated 25.05.2001 came to be stayed.

6.19 As noted above, neither the appointment on the higher post of Section In-Charge was dependent on the outcome of the proceedings pertaining to the discontinuance of his service on the lower post of Security Inspector, nor the confirmation order quoted above refers to it, and therefore, inspite of the above referred orders of the Industrial Court dated 20.07.2001 and 18.06.2002 passed on the said Review Application, the petitioner-employee continued to work on the post of Section In-charge.

6.20 Pursuant to the above order of the Industrial Court, the Appeal filed by the employer was again considered on merits and it was allowed vide order dated 14.02.2003. By the said order, the Industrial Court set aside the order passed by the Labour Court dated 28.11.1997 and the order passed by the Industrial Court on that very Appeal dated 25.05.2001.

6.21 At that stage, the employer sent a letter to the petitioner on 27.02.2003 communicating him about discontinuance of his service from the post of Section In-charge. The said communication reads as under.

"Dear Sir,

You are aware of the fact that you had challenged your termination order in Labour Court. The said order of termination has been upheld by the order passed by the Hon'ble Industrial Court in its latest decision. A copy of the said decision is enclosed herewith alongwith pursis.

In view of the aforesaid facts, you are discontinued.

You are requested to handover the vacant possession of our residential quarter No. B/6 at our Naranpura Zonal Office Premises allotted to you by virtue of your employment with the company.

Kindly acknowledge receipt of this letter."

7.1 The above communication dated 27.02.2003 led to two fold litigations. The order of the Industrial Court dated 14.02.2003 was challenged by the petitioner before this Court by filing petition being Special Civil Application No. 2113 of

2003. Secondly, the termination order dated 27.02.2003 was directly challenged before this Court by filing petition being Special Civil Application No. 2819 of 2003.

7.2 Special Civil Application No. 2819 of 2003 came up for hearing earlier in point of time (23.06.2004), in which the stand was taken on behalf of the employer that, the said termination is the consequence of the order of the Industrial Court dated 14.02.2003, and the said order is already the subject matter of Special Civil Application No. 2113 of 2003 and therefore, there is duplication of the litigation by the employee. Under these circumstances, Special Civil Application No. 2819 of 2003 came to be dismissed by this Court as not maintainable, vide order dated 23.06.2004. However, it was clarified that, the petitioner was at liberty to challenge the said termination order dated 27.02.2003 before the Labour Court. Thus, the legality and validity of the termination order dated 27.02.2003 was not examined by this Court, in the said petition. The said order of this Court dated 23.06.2004 has remained unchallenged.

7.3 Subsequently, Special Civil Application No. 2113 of 2003 came up for hearing before this Court, and on 13.01.2006 the said petition was dismissed. In the said petition, the order of the Industrial Court dated 14.02.2003 was under challenge. Thus, the discontinuance of service of the petitioner from the lower post of Security Inspector was the subject matter of the said petition. The Labour Court had already held the discontinuance of service of the petitioner from the lower post of Security Inspector vide order dated 13.04.1992, to be illegal vide its order dated 28.11.1997, which was confirmed also by the Industrial Court vide order dated 25.05.2001. Both the Courts had recorded that, since the petitioner was already reinstated in service, no order was required directing the employer to reinstate the petitioner. The said order of the Industrial Court was subsequently taken in Review by the Industrial Court at the instance of the employer, in the circumstances recorded above, and the order of the Labour Court came to be set aside. It is this order of the Industrial Court, which was the subject matter of the said petition i.e. Special Civil Application No. 2113 of 2003. While dismissing the said petition, what had weighed with this Court is inter alia reflected in paras: 5.0 and 7 of the order dated 13.01.2006, which read as under.

"5. I have considered the arguments of both the sides. As a result of hearing and perusal of records, I am of the opinion that the petitioner ought to have challenged the order of the Labour Court though the Labour Court has observed that the question of reinstatement does not exist. However, there is no declaration regarding setting aside the order of retrenchment which was passed and subsequent to which the petitioner was restored in service.

6. XXX

7. It is required to be noted that there is no declaration by the Labour Court in respect of setting aside the order of retrenchment. The said order was challenged

neither by way of appeal or cross-objection nor review as filed by the petitioner before Labour Court. In fact, the order of the Labour Court was accepted by the petitioner wherein the order of retrenchment is not set aside."

7.4 The above decision of this Court in Special Civil Application No. 2113 of 2003 dated 13.01.2006 was challenged by the petitioner by filing Letters Patent Appeal No. 1205 of 2006. The said Appeal was dismissed by the Division Bench of this Court vide order dated 18.06.2007.

7.5 Against the above, the petitioner had approached Honourable the Supreme Court of India by filing SLPs Nos. 24173 and 24174 of 2007, on which the following order was passed on 26.08.2011, after hearing the petitioner employee as well as the learned advocate for the employer.

" The petitioner was terminated by his employer the Ahmedabad Electricity Company Limited vide order dated 27.2.2003. He challenged the said order dated 27.2.2003 before the High Court of Gujarat at Ahmedabad in Special Civil Application No. 2819/2003. The High Court of Gujarat in its order dated 26.3.2004 (read 23.06.2004) passed in Special Civil Application No. 2819/2003, has observed that the appellant shall be at liberty to challenge the said order dated 27.2.2003 before the Labour Court.

In this view of the matter, it would be appropriate that the petitioner approaches the Labour Court. Accordingly, the petitioner is granted four weeks time to file a petition before the Labour Court and we are sure that the Labour Court would decide all the issues raised in this petition.

Since the matter has been pending for quite some time, we request the Labour Court to decide the dispute within six months from the date of filing.

This special leave petition is disposed of with the aforementioned observation and direction."

7.6 Thus, by the above referred order of the Honourable the Supreme Court dated 26.08.2011, which also refers the order of this Court dated 26.03.2004 recorded on Special Civil Application No. 2819 of 2003, the legality of the termination order dated 27.02.2003 was to be gone into by the Labour Court. The petitioner accordingly filed application before the Labour Court being T. Application No. 88 of 2011. The said application was filed on 29.09.2011. The said application is dismissed on 23.03.2012. The employee had challenged the said order of the Labour Court before the Industrial Court. The Labour Court had recorded certain observations and finding against the employer as well and therefore, the employer had also challenged the said order of the Labour Court before the Industrial Court. This is how the Industrial Court dealt with two appeals and passed the common order. The Industrial Court ultimately decided both the appeals against the employee vide its order dated 10.01.2014. It is these orders which are challenged before this Court, by the employee. Thus, it is the action of the employer, of discontinuing the service of the employee from the

post of Section In-charge with effect from 27.02.2003, and the orders passed by the Courts below in that regard, which is to be considered by this Court.

8. Considering the totality of the matter, particularly the facts as emerging from record, as recorded in paras: 6.1 to 6.21, and the further litigation before this Court as well as before the Honourable the Supreme Court of India as recorded in paras: 7.1 to 7.6 above, and the reasons recorded by the Labour Court in its order dated 23.03.2012, and that of the Industrial Court, Ahmedabad dated 10.01.2014, a picture has emerged where the Labour Court has not examined the merits of the cause of action before it i.e. the discontinuance of service of the employee from 27.02.2003 on the ground that, the same was the consequence of the order dated 20.07.2001 passed by the Industrial Court in Review Application No. 64 of 2001, and further that, since the cause of action was of the year 2003, there was delay in approaching the Labour Court. Thus, principally the grievance of the petitioner is not addressed by the Courts below on the ground of delay. Here the illegality is committed by the Courts below, keeping in view the above quoted order of the Honourable the Supreme Court of India dated 26.08.2011. The harshness on the part of the Labour Court was so grave that according to it, as observed in the order of Honourable the Supreme Court of India dated 26.08.2011, the petitioner was to file petition before the Labour Court within a period of four weeks i.e. by 23.09.2011, however, he had filed it on 29.09.2011 and therefore the application was barred by limitation. Reference can be made to para: 15 of the order of the Labour Court. The say of the employee that he had received the certified copy of the said order of Honourable the Supreme Court of India on 03.09.2011 is recorded by the Labour Court, but ultimately the application was held to have been filed beyond the time granted by Honourable the Supreme Court of India. This was one of the reasons to reject the application. Though the Appellate Court below set aside that objection, but it held that the application of the employee was barred by limitation on the ground that though discontinuance of service is of the year 2003, he has approached the Labour Court in the year 2011, which would be against the provisions of the Bombay Industrial Relations Act and therefore, bar of delay was to operate. Thus, the order of Honourable the Supreme Court of India, as quoted above, which was passed after bi-partite hearing, was completely brushed aside by the Courts below to non-suit the employee on the ground of delay. Therefore, it is held that, keeping in view the order of Honourable the Supreme Court of India, as quoted above, the claim of the employee before the Labour Court in T. Application No. 88 of 2011 was not barred by limitation.

9. So far the merits of the matter are concerned, the reading of the orders of the Labour Court and the Industrial Court both makes it clear that, none has gone into the merits of the communication of the employer dated 27.02.2003 intimating about the discontinuance of service of the employee from the post of Section In-charge. The Courts below have proceeded on the footing that, since the discontinuance of service of the petitioner from the post of Security Inspector was upheld, as the necessary consequence, he could not be continued on the

higher post, though while doing so, both the Courts below have completely brushed aside the fact that, even the discontinuance of service of the petitioner from the lower post i.e. Security Inspector was not gone into by the Labour Court at the relevant time on the ground that, he was already working on the higher post. At that relevant point of time, the only question remained to be adjudicated was back wages. Thus, the discontinuance of service, which was not approved by the Courts below, was held to be sufficient ground to discontinue the service even on the higher post, further ignoring the fact that, the petitioner was the confirmed employee on the higher post, his probation period was already found to be satisfactory, and even in the confirmation order dated 29.12.1997, which is quoted above in para: 6.13 above, it was not dependent on the litigation pertaining to the lower post. Further, the communication dated 27.02.2003, which is quoted in para: 6.21 above also, is in no way the termination order, and it also does not speak that he is discontinued from the post of Section In-charge, he is only informed about the discontinuance from the service by the Company. Thus, viewing from any angle, the said action could not be upheld to be legal. It is not that, the Courts below have upheld that termination, the Courts below have not interfered in the said action of discontinuance of service, without going into the merits thereof. There is one more glaring aspect. In the present case, the very foundation of the discontinuance of service is the review of the order of the Industrial Court in the circumstances narrated in para: 6.17 and 6.18 above, and the final order passed thereon. If that was the understanding of the employer that, the order passed on Review Application will have bearing on the service of the petitioner on the higher post of Section In-charge, at least, he ought to have been heard as to what he had to say in the matter. The impugned communication dated 27.02.2003, apart from other illegalities, was thus in gross violation of principles of natural justice, and on that additional ground also, the action of discontinuance of service of the confirmed employee, needs to be quashed and set aside.

10. So far the decisions as relied by learned advocate for the employer, as referred in para: 5 above are concerned, there cannot be any dispute in the proposition of law in said judgments, however in the present case, the merits of the impugned action of the employer dated 27.02.2003 was already ordered to be gone into by the Labour Court pursuant to the order of the Honourable the Supreme Court of India dated 26.08.2011 quoted above and it was after hearing the employer, and therefore the argument that there was delay on the part of the employee, would not be available to the employer. This Court is unable to read the above quoted order of Hon'ble the Supreme Court of India as an infructuous order, as sought to be attempted by the employer. Hon'ble the Supreme Court has already referred to the order dated 27.02.2003, and after hearing the employer observed that, it would be appropriate that the Labour Court goes into the merits of the matter. It also needs to be recorded that, it is the case of the employer itself, as accepted by the Courts below, that the discontinuance of service on 27.02.2003 was the consequence of the order of the Industrial Court

in Review Application filed by the employer. The same was the subject matter of Special Civil Application No. 2113 of 2003 and the proceedings before the Supreme Court was arising from the said matter. Thus, the very foundation of discontinuance of service of the petitioner was the said review proceedings, which Hon''ble the Supreme Court of India remanded to the Labour Court for fresh adjudication to the extent it had effect of termination of service of the petitioner from the higher post. Under these circumstances, the above referred decisions will not take the case of the employer any further.

11. In above circumstances, this Court finds that, the impugned action of the employer of discontinuing the service of the petitioner employee vide communication dated 27.02.2003 from the post of Section In-charge was illegal, and the same needs to be quashed and set aside. The Courts below have committed serious error by not setting aside the said action. The said action therefore needs to be quashed and set aside by this Court.

12. For the reasons recorded above, following order is passed.

12.1 This petition is allowed.

12.2 The communication sent by the respondent employer to the petitioner employee dated 27.02.2003, intimating him about discontinuance of his service from the post of Section In-charge, on which he was serving at the relevant time, is held to be illegal, and is quashed and set aside.

12.3 T. Application No. 88 of 2011 filed by the petitioner employee before the Labour Court, Ahmedabad, pursuant to the order of Honourable the Supreme Court of India in Special Leave Petition (Civil) Nos. 24173 - 24174 of 2007 dated 26.08.2011, challenging the above referred discontinuance of service dated 27.02.2003, is allowed. The order dated 23.03.2012 passed by the Labour Court dismissing the said application, is quashed and set aside.

12.4 The common order dated 10.01.2014 passed by the Industrial Court, Ahmedabad in Appeals (IC) No. 15 of 2012 and 04 of 2013, arising from the above referred order of the Labour Court dated 23.03.2012, is quashed and set aside.

12.5 The date of birth of the petitioner is indicated to be 27.11.1953 and the date of retirement is indicated to be 58 years, and therefore, the petitioner is held to be in service till his superannuation retirement i.e. upto 30.11.2011.

12.6 The respondent - employer is directed to pay to the petitioner, his wages from 01.03.2003 to 30.11.2011, which he would have been paid, had the impugned communication dated 27.02.2003 not been sent to him.

12.7 The respondent - employer is further directed to pay retirement dues of the petitioner employee, as per rules of the company, considering that the petitioner was in service till 30.11.2011.

12.8 The amount of unpaid wages and retirement dues as ordered above, shall

be paid within a period of two months from today.

12.9 Rule made absolute to the above extent. No order as to costs.

After the pronouncement of this judgment, request is made on behalf of the respondent - employer to stay this order for some time. With a view to see that, challenge if any, to this order remains meaningful to the respondent - employer, reasonable time should be available to him, however, two months time is already granted by this Court. Under these circumstances, no further indulgence needs to be extended to the respondent. Therefore, this request is rejected.