

(2010) 07 GUJ CK 0016

In the Gujarat High Court

Case No : Special Civil Application No. 3915 of 2004

Divisional Controller G.S.R.T.C.

APPELLANT

Vs

Manibhai Somabhai Patel

RESPONDENT

Date of Decision : 28-07-2010

Acts Referred:

Citation : (2010) 07 GUJ CK 0016

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

Bench : Single Bench

Advocate : Sejal K. Mandavia, for the Appellant; Vijay N. Raval, for the Respondent

Judgement

K.S. Jhaveri, J.—This petition is directed against the judgement and award dated 31.07.2002 passed by the Presiding Officer, Special Labour Court, Vadodara in Reference (LCV) No. 1406 of 1998 whereby the punishment of dismissal was substituted to stoppage of one increment for one year and 50% backwages with continuity of service .

2. The respondent was serving as a Driver with the Corporation. On 23.04.1994, he remained unauthorizedly absent without informing the Corporation regarding his absence or got sanctioned his leave. The Corporation issued notice to the respondent to resume his duty but he did not turn up. Hence, after issuing charge-sheet and conducting departmental inquiry, he was dismissed from service on 05.06.1995. The respondent therefore raised a dispute before the Special Labour Court, Vadodara by way of Reference (LCV) No. 1406 of 1998 and the Special Labour Court, Vadodara passed the award as stated hereinabove.

3. When the matter was admitted, interim-relief was granted on condition that the petitioner deposits the amount of Rs. 5000/- with this Court for compensating the delay caused in preferring the petition.

4. Heard the learned Advocates for the respective parties and perused the relevant documents on record. It is found that respondent has already retired

from the service on 31.03.1999. Hence, there is no question to reinstate the respondent. The allegations against the respondent was remaining absent from duty, which in my opinion, do not warrant penalty of dismissal from service. There were as many as 18 defaults on the part of the respondent which fact was not considered by the Labour Court and in spite of this fact, the Labour Court has taken a lenient view by imposing a minor penalty. However, having considered the overall facts and circumstances I am of the view that interest of justice would be met by imposing a penalty of stoppage of one increment with future effect. Further, with regard to issue of 50% backwages and continuity of service awarded by the Labour Court, it is found that the Labour Court has not assigned any reasons while awarding 50% backwages to the respondent.

5. In the premises aforesaid, the judgemant and award qua reinstatement and backwages is quashed and set aside. A penalty of stoppage of one increment with future effect shall be imposed upon the respondent. The judgement and award of the Labour Court is modified to the aforesaid extent. The award shall be implemented within a period four months from today. Rule is made absolute to the aforesaid extent.

6. The ensuing monetary benefits will be released by the petitioner within a period of four months from today.