

(2011) 06 GUJ CK 0024

In the Gujarat High Court

Case No : Special Civil Application No. 17746 of 2003

Dy. Engineer Sub Division (R and B)

APPELLANT

Vs

Sindha Narpatsinh Kalubhai

RESPONDENT

Date of Decision : 30-06-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 2, 25F

Citation : (2011) 06 GUJ CK 0024

Hon'ble Judges : D.H. Waghela, J

Bench : Single Bench

Advocate : Sudhanshu S. Patel for Petitioners 1, for the Appellant; Harshad J. Shah for Respondent(s) 1, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice D.H. Waghela

1. The petitioner, Deputy Engineer of Taluka Panchayat, has invoked Articles 226 and 227 of the Constitution to challenge the award and order dated 30.6.2003, whereby the respondent has been ordered to be reinstated with continuity of service with 25% backwages. The Labour Court has, in the impugned elaborate award, found that the petitioner's institution was an "industry", that the respondent had completed continuous service of more than 240 days in the year preceding his date of termination and that the interruption of service by the petitioner was in violation of the provisions of Sec. 25-F of the Industrial Disputes Act, 1947 ("the I.D.Act" for short).

2. Learned counsel Mr. Sudhanshu Patel, appearing for the petitioner, reiterated the same issues which were sought to be raised before, and which are elaborately dealt with by, the Labour Court. It was submitted that the respondent was appointed under various orders for a fix period of service and his service under each such order was separate which could not have been clubbed for arriving at the conclusion of continuous service. It was, on that basis, also

submitted that the case of the respondent was covered by the provisions of Sec. 2(oo)(bb) of the I.D.Act and hence the question of violation of Sec. 25-F could not arise. These submissions have to be recorded only for being rejected in view of the clear and correct finding of fact on the number of days served by the respondent in the years 1984-85, 1985-86 and 1986-87. It is also found, as a fact, that the respondent was not appointed on a particular project or for a particular job, but he was practically continued in service and at one stage even placed in a pay-scale. It was fairly conceded by learned counsel Mr. Patel that, after the impugned award, the respondent was reinstated and by now he has retired upon reaching the age of superannuation. Therefore, nothing survives in the matter and no case having been made out to interfere with the impugned award in exercise of the extraordinary jurisdiction of this Court, the petition is dismissed. Rule is discharged, with no order as to costs. Interim relief granted earlier stands vacated.