

(2011) 02 GUJ CK 0076

In the Gujarat High Court

Case No : Letters Patent Appeal No. 268 of 2011 in Civil Application No. 13983 of 2010 in Special Civil Application No. 2776 of 2009

General Manager and Another

APPELLANT

Vs

Subhashbhai Ramnikbhai Gadhiya and Another

RESPONDENT

Date of Decision : 10-02-2011

Acts Referred:

Industrial Disputes Act, 1947 — Section 17(B)

Citation : (2011) 02 GUJ CK 0076

Hon'ble Judges : Jayant M. Patel, J;J.C. Upadhyaya, J

Bench : Division Bench

Advocate : R.C. Kakkad, 1 and 2, for the Appellant; Amar D. Mithani, for Respondent 1, for the Respondent

Final Decision : Allowed

Judgement

Jayant Patel, J.—Admit. Mr. Mithani with Mr. Buch waives notice of admission. The matter is finally heard.

2. The present appeal arises against the order dated 28.01.2011 passed by the learned Single Judge of this Court below Civil Application for vacating of the interim relief No. 13983/10, whereby the learned Single Judge has observed for compliance of the provisions of Section 17B of the Industrial Disputes Act ("the Act" for short) on or before 11.02.2011. If there is no compliance, the learned Single Judge has further observed that, the Registry may treat the matter as having dismissed for default without being referred to the Court.

3. The learned Counsel appearing for both the sides after some arguments, suggestions and counter suggestions, agree on the following aspects:

4. All arrears of the last wages drawn upto 28.02.2011 shall be paid by the Appellant bank to the Respondent on or before 18.02.2011. If the amount is calculated accordingly, the amount of Rs. 20,250/- is already paid, but the amount of Rs. 10,800/- which is yet to be paid shall be paid before the aforesaid

date.

5. It is further agreed that the Appellant Bank shall allow the Respondent to join duty as per the interim order passed in the main Special Civil Application at Talala (Gir Branch) from 01.03.2011 and thereafter, till final disposal of the petition, such offering of the employment by the Appellant Bank to the Respondent shall continue and as per the interim order passed in the main Special Civil Application, the wages shall not be paid less than the minimum wages prescribed for such purpose.

6. The learned Counsel agrees that let the Special Civil Application be continued as pending and be decided on merits by the learned Single Judge.

7. We find that as such, the aspects which gave rise to the impugned order of the learned Single Judge was the compliance to the provisions of Section 17B of the Act and further the interim order passed by this Court. It is only on account of non compliance of the order, the learned Single Judge observed that the petition may stand dismissed for default. Now as the learned Counsel appearing for both the sides agree for compliance of the provisions of Section 17B of the Act read with the interim order of this Court in the manner as recorded hereinabove, the order passed by the learned Single Judge would not survive, but the understanding and declaration recorded hereinabove in the present appeal would be abided by and shall be implemented by the respective parties.

8. It is also observed that the main Special Civil Application shall not be treated as dismissed for default and shall be considered by the learned Single Judge as and when it reaches for final hearing.

9. Letters Patent Appeal is allowed to the aforesaid extent. No order as to costs.

10. In case if there is any breach or non-compliance to the aforesaid order, it would be open to either side to move the learned Single Judge.