

(2010) 09 GUJ CK 0042

In the Gujarat High Court

Case No : Special Civil Application No's. 11088 of 2002 and 13966 to 13974 of 2003

Gujarat Maritime Board and Others

APPELLANT

Vs

Dinesh R. Dave and Others

RESPONDENT

Date of Decision : 21-09-2010

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2010) 09 GUJ CK 0042

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : Trivedi and Gupta for Petitioner Nos. 1-3, for the Appellant; T.R. Mishra and U.T. Mishra, for the Respondent

Judgement

M.R. Shah, J.—As the common question of law and facts arise in this group of petitions challenging the common judgment and award passed by the Presiding Officer, Labour Court No. 1, Bhavnagar in Reference (LCB) No. 433 of 1993 and other allied references, all these petitions are disposed of by this common judgment and order.

2. In all these petitions under Article 227 of the Constitution of India, the common petitioner Gujarat Maritime Board and others have prayed for appropriate writ, order or direction quashing and setting aside the impugned common judgment and award dated 15.7.2002 passed by the Presiding Officer, Labour Court No. 1, Bhavnagar in Reference (LCB) Nos. 433 of 1993, 536 of 1993, 537 of 1993, 538 of 1993, 539 of 1993, 638 of 1993, 717 of 1993, 39 of 1994, 226 of 1994 and 28 of 1995 by which the Labour Court No. 1, Bhavnagar has allowed all the aforesaid references directing the petitioners to reinstate the concerned workman except one Dilip P. Kotila who died during pendency of the reference with full back wages and continuity of service.

3. Learned advocates appearing on behalf of the respective parties have made various submissions on merit of the case. During the course of submissions, Shri

T.R. Mishra, learned advocate appearing on behalf of the concerned workmen has stated that considering the suggestion made by earlier bench and in pursuance of the order passed by this Court dated 2.7.2010, the concerned workmen have already made representations to the petitioners submitting that all the concerned workmen are ready and willing to forgo the entire back wages if their case may be considered for reinstatement with continuity of service.

4. Initially, Mr. Nayak, learned advocate appearing on behalf of the petitioners shown reservation on the part of the petitioners to agree for continuity of service. However, after the matters were argued and learned advocates appearing on behalf of the respective parties made submissions on merit, again this Court suggested that it will be in the interest of parties and to put an end to the litigation which is pending since long, the suggestion and offer by the concerned workmen to reinstate them without back wages, but with continuity of service seems to be reasonable, just and fair which may be considered. Thereafter, there is broad consensus between the respective parties that impugned judgment and order passed by the Labour Court No. 1, Bhavnagar be modified to the extent that respective concerned workmen be reinstated without any back wages from the date of their alleged termination till their reinstatement, however, with continuity of service, but without any monetary benefit. Learned advocate appearing for the respective parties have requested to pass appropriate order accordingly.

5. In view of the above and the fact that there is broad consensus between the parties and to put an end to the entire litigation which is pending since long, it appears to the Court that if the impugned judgment and award passed by the Labour Court No. 1, Bhavnagar dated 15.7.2002 in the aforesaid references is modified to the extent that the respective concerned workmen be reinstated in service without any back wages from the date of their alleged termination till the actual reinstatement, but with continuity of service and without any monetary benefit, it would sub-serve the ends of justice and it will be in the interest of both the parties.

6. In view of the above, all these petitions succeed in part and the common judgment and award passed by the Labour Court No. 1, Bhavnagar dated 15.7.2002 in Reference (LCB) Nos. 433 of 1993, 536 of 1993, 537 of 1993, 538 of 1993, 539 of 1993, 638 of 1993, 717 of 1993, 39 of 1994, 226 of 1994 and 28 of 1995 is hereby modified to the extent that the concerned workmen respondents herein be reinstated in service to their original post within a period on or before 15.10.2010. However, the concerned workmen shall not be entitled to any back wages from the date of their alleged termination till their reinstatement; however, they shall be entitled to continuity of service but without any monetary benefit.

7. Rule is made absolute to the aforesaid extent in each of the petitions. However, in the facts and circumstances of the case, there shall be no order as to costs.