

(2001) 06 GUJ CK 0056
In the Gujarat High Court

Case No : Special Civil Application No. 4386 of 2001

Gujarat State Road Transport Corporation	APPELLANT
Vs	
B.M. Vaghmasi	RESPONDENT

Date of Decision : 25-06-2001

Acts Referred:

Citation : (2001) 06 GUJ CK 0056

Hon'ble Judges : R.R. Tripathi, J

Bench : Single Bench

Advocate : Hardik C. Rawal, for the Appellant; B.A. Vaishnav, for the Respondent

Final Decision : Partly Allowed

Judgement

Ravi R. Tripathi, J.—The present Special Civil Application is filed by the petitioner-Corporation against the judgment and award dated 18th September, 2000, passed by the Labour Court, Surat, in Reference (LCS) No. 262/1997, whereby the respondent-workman is ordered to be reinstated in service with 100% back-wages.

2. Rule. Mr. B.A. Vaishnav, learned Advocate appears and waives service of notice of Rule on behalf of respondent. With the consent of the parties, the matter is taken up for final hearing today itself.

3. Mr. Hardik Raval, learned Advocate appearing for the petitioner-Corporation, invited the attention to the fact that the respondent-workman, who was examined at Exh. 10, has deposed that he was dismissed from service on 16/12/1993 and after that he was trying to find out the work and sometimes, two days a week, he used to get work for Rs. 40=00 to Rs. 50=00 per day. From the said deposition, it is clear that at least Rs. 400=00 p.m. was earned by the respondent-workman during the period when he was out of service. Mr. Raval also pointed out that the learned Judge has recorded the fact that though the respondent-workman was dismissed from service on 14/12/1993, he filed the present proceedings only on 10/07/1996. The learned Judge has also recorded

that he is not concerned as to why the said delay has occurred, but, then, he has stated that the respondent-workman was prosecuting his grievance before the District Court by filing a Civil Suit No. 1812/1993, which came to be disposed of on 10th June, 1996 and therefore, the present proceedings came to be filed on 10th July, 1996.

4. Taking into consideration the aforesaid fact, Mr. Hardik Raval submitted that the awarding of 100% back-wages is totally unjust and uncalled for and it amounts to giving undue enrichment to the respondent-workman, who was otherwise gainfully employed, to an extent, which is clear from his own deposition.

5. Mr. B.A. Vaishnav, learned Advocate appearing for the respondent-workman, submitted that as the workman was prosecuting his grievance before the Civil Court, may be under a mistake, the same should not come in his way and the back-wages awarded should be ordered to be paid by the petitioner-Corporation.

6. Taking into consideration, the totality of the circumstances and the rival contentions of the both the sides, this Court is of the opinion that interest of justice will be served if the award of the Labour Court is modified to the extent that instead of awarding 100% back-wages for the entire period, 75% back-wages are awarded for the period from the date on which the present proceedings are filed, that is, from 10th July, 1996. It goes without saying that the petitioner-Corporation shall reinstate the respondent-workman within 3 weeks from the date of receipt of copy of this Order. Hence, the petition is partly allowed and Rule is made absolute to the aforesaid extent only. No Order as to costs.