

(2010) 08 GUJ CK 0058
In the Gujarat High Court

Case No : Special Civil Application No. 3818 of 2010

Gujarat State Road Transport Corporation	APPELLANT
Vs	
Khatau J. Thacker	RESPONDENT

Date of Decision : 25-08-2010

Acts Referred:

Citation : (2010) 08 GUJ CK 0058

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

Bench : Single Bench

Advocate : Hardik C. Rawal, for the Appellant; A.S. Supehia, for the Respondent

Judgement

K.S. Jhaveri, J.—By way of present petition, the petitioner has prayed to quash and set aside the impugned award dated 29.07.2009 passed by the Labour Court, Kachchh at Bhuj in Reference (L.C.B.) No. 4 of 2006 whereby the Labour Court has directed the petitioner to treat the respondent in continuous service from 31.08.2004 till the date of his superannuation i.e. 31.07.2008 and on that basis has granted 100% backwages with all incidental benefits from the date of dismissal i.e. 31.08.2004 to the date of superannuation i.e. 31.07.2008 with continuity of service and other incidental benefits.

2. The respondent was working as a Conductor in the bus of the petitioner-Corporation. The petitioner was transferred from Mandvi Depot to Rapar on 12.09.2002 but he had not reported at Rapar and remained absent without approval from 14.09.2002 till the date of his dismissal i.e. 31.08.2004. The petitioner was dismissed after holding departmental inquiry. The respondent therefore, raised a dispute which was numbered as Reference (L.C.B.) No. 4 of 2006 and the Labour Court passed the award as stated hereinabove. Hence, this petition.

3. Learned advocate for the petitioner contended that the respondent had remained absent from duty without prior permission of the authority and he was dismissed twice from the service in view of the 24 defaults committed by him. He

contended that inspite of such misconduct, the Labour Court has not imposed any penalty upon the respondent. Hence, the award of the Labour Court is required to be quashed and set aside.

4. Learned advocate for the respondent contended that the workman has already retired from service on 31.07.2008 but the petitioner-Corporation has not paid any retirement benefits to respondent-workman. He also contended that the order dated 25.06.2010 passed by this Court is not complied with by the petitioner-Corporation till date.

5. Heard the learned advocates for the respective parties and perused the relevant documents on record. As a result of hearing, it appears that the order dated 25.06.2010 is not complied with by the petitioner-Corporation. Hence, the contention raised by learned advocate for the respondent is required to be accepted. It is also observed that the respondent-workman has retired from service on 31.07.2008. In that view of the matter, the petitioner-Corporation is directed to comply with the order dated 25.06.2010 within a period of two weeks from the date of the receipt of the writ of order of this Court. It is made clear that if the order dated 25.06.2010 will not be complied with by the petitioner-Corporation within the stipulated period, it will be open to respondent to initiate contempt proceedings. As the respondent has retired on 31.07.2008, the retirement dues will be paid to the respondent within a period of two weeks from the date of the receipt of the writ of the order of this Court.

6. With the above direction, petition stands disposed of. Subject to the above Rule is discharged. Interim relief, if any, stands vacated. Directs service is permitted.