

(2005) 01 GUJ CK 0035

In the Gujarat High Court

Case No : Special Civil Application No. 1099 of 1998

Gujarat State Road Transport Corporation

APPELLANT

Vs

Niranjanbhai P. Budhdhev

RESPONDENT

Date of Decision : 12-01-2005

Acts Referred:

Industrial Employment (Standing Orders) Act, 1946 — Section 13A
Road Transport Corporations Act, 1950 — Section 45

Citation : (2005) 01 GUJ CK 0035

Hon'ble Judges : H.K. Rathod, J

Bench : Single Bench

Advocate : Krina Thakkar, for Yogesh S. Lakhani, for the Appellant; M.D. Rana, for the Respondent

Final Decision : Dismissed

Judgement

H.K. Rathod, J.—Heard Ms. Krina Thakkar, learned counsel appearing for the petitioner and Mr. M.D.Rana, learned counsel appearing for the respondent.

2. In the present petition, Gujarat State Road Transport Corporation has challenged the order dated 22.12.1997 passed by the Labour Court, Junagadh, in IESO No. 10 of 1997.

3. When the matter has been taken up for hearing, Ms. Krina Thakkar, learned counsel for the petitioner submitted that Regular Civil Suit No. 207 of 1997 was filed by the workman before the Civil Court, Gondal, and that suit has been dismissed on 28.11.1997 by Civil Judge, Senior Division, Gondal. She also submitted that all the questions which have been raised by the workman in the Civil Suit filed by him before the Civil Court were also raised before the Labour Court and the Civil Suit has been dismissed. She submitted that therefore, the Labour Court had no jurisdiction to examine the matter u/s 13-A of the Industrial Employment (Standing Orders) Act, 1946 (hereinafter referred to as "the Act"). She submitted that petitioner-Corporation is not having certified standing order but it is having its own statutory service regulation and therefore, the Labour

Court had no jurisdiction to entertain such application.

4. Mr. M.D. Rana, learned counsel appearing for the respondent submitted that whatever decision that has been taken by the Civil Court in the Civil Suit is subject to the outcome of appeal, if any, filed by the respondent challenging the judgment of the Civil Court and the decision rendered in such appeal will govern the rights of the parties.

5. In view of this factual aspect and in view of the fact that the questions that have been examined by the Civil Court have again been examined by the Labour Court and considering the provisions of Section 13-A of the Act, it is clear that the Corporation is not having certified standing order which requires interpretation from the Labour Court. Section 13-A of the Act is very clear and it provides that:

"13-A Interpretation, etc. of standing orders --

If any question arises as to the application or interpretation of a standing order certified under this Act, any employer or workman or a trade union or other representative body of the workmen may refer the question to any one of the Labour Courts constituted under the Industrial Disputes Act, 1947, and specified for the disposal of such proceedings by the appropriate Government by notification in the Official Gazette, and the Labour Court to which the question is so referred shall, after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties."

Admittedly, the Corporation is not having certified standing order under the Act but it is having its own statutory service regulation enacted while exercising powers u/s 45 of the Road Transport Corporations Act. Therefore, the provision of Section 13-A of the Act is not applicable to the facts of this case, and therefore, the order which has been passed by the Labour Court dated 22.12.1997 in IESO No. 10 of 1997 is required to be quashed and set aside.

6. In the result, the order dated 22.12.1997 passed by the Labour Court, Junagadh, in IESO No. 10 of 1997 is hereby quashed and set aside. Rule is made absolute. No order as to costs.