

(2001) 07 GUJ CK 0062

In the Gujarat High Court

Case No : Special Civil Application No. 6358 of 2000

Gujarat Water Supply and Sewerage Board

APPELLANT

Vs

Dineshchandra Bhogilal Mau

RESPONDENT

Date of Decision : 18-07-2001

Acts Referred:

Citation : (2001) 07 GUJ CK 0062

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

Bench : Single Bench

Advocate : Bharat T. Rao, for the Appellant; A.K. Clerk, for the Respondent

Final Decision : Partly Allowed

Judgement

Ravi R. Tripathi, J.—Rule. Mr. A.K. Clerk, learned Advocate for the respondent, waives service of Rule on behalf of the respondent. With the consent of the parties, the matter is taken up for final disposal today.

2. The Gujarat Water Supply and Sewerage Board (hereinafter referred to as the 'Board') has challenged the award dated 21/10/1999 passed by the Labour Court, Jamnagar, in Reference (LCJ) No. 1660/1990 (new), which had an old number, i.e Reference (LCR) No. 977 of 1989. The learned Judge was pleased to award reinstatement on the original post of the respondent-workman with 25% back-wages.

3. Mr. B.T. Rao, learned Advocate appearing for the petitioner-Board, submitted that it is the case of the petitioner-Board, which is recorded in paragraph 7 of the award, that the Board is doing the work of supplying water during the days of scarcity taking into consideration the public interest and that the Courts have held in various decisions, which are referred to in the said paragraph, that the Irrigation Department is not an industry and that the respondent-workman has not produced any evidence to show that he had a continuous service. It is also recorded in the award that the respondent-workman has suppressed these material facts and therefore, he is not entitled for the reinstatement. It is further

recorded by the learned Judge that, "It is the case of the petitioner-Board that it is clear from the record produced in the proceedings that the respondent-workman was an ad hoc appointee and that he has not completed 240 days". In view of the same, provisions of section 25-F were not required to be complied with and the respondent-workman has no right of being reinstated.

4. Mr. Rao submitted that the learned Judge of the Labour Court has committed an error in awarding the reinstatement with 25% back-wages.

5. Mr. A.K. Clerk, learned Advocate appearing for the respondent-workman, produced a copy of the award passed in Reference (LCJ) No. 7/1991 dated 15th October, 1999. Mr. Clerk submitted that the petitioner-Board has complied with the said award and has already reinstated the workman, in whose favour the said award was passed. Mr. Clerk submitted that there is no reason for which the present respondent-workman should be treated differently. Mr. Clerk submitted that more particularly, when three persons, whose names are mentioned in paragraph-6 of the award and who are juniors to the present respondent-workman, are continued in service.

6. Mr. B.T. Rao submitted that even in the matter of award, which is referred to by Mr. Clerk, reinstatement is made only on `work charge establishment" and not on `regular establishment".

7. Taking into consideration the rival contentions of both the sides, when the petitioner-Board has complied with the award in the case of one workman, there is no reason, why the petitioner-Board shall not comply with the award passed in the case of the present respondent. The Board shall comply with the award in the same manner and therefore, the award dated 21/10/1999 is modified to the effect that the respondent-workman be reinstated on `work charge establishment" without any back-wages with continuity of service within 30 days from the date of receipt of copy of writ of this order. It is further clarified that the respondent-workman shall be placed in the seniority list on the basis of his initial date of appointment.

The petition is partly allowed. Rule is made absolute to the aforesaid extent only. No order as to costs. Direct service is permitted.