

(2026) 02 GUJ CK 1614

In the Gujarat High Court

Case No : R/Special Civil Application No. 11019 Of 2022

Hasmukhbhai Balashankerbhai Joshi

APPELLANT

Vs

Medical Officer & Anr

RESPONDENT

Date of Decision : 02-02-2026

Acts Referred:

Constitution Of India, 1950 — Article 226, 227

Industrial Disputes Act, 1947 — Section 25(F), 25(G), 25(H)

Citation : (2026) 02 GUJ CK 1614

Hon'ble Judges : Hemant M. Prachchhak

Bench : Single Bench

Advocate : MA Parekh, HS Munshaw

Final Decision : Allowed

Judgement

Hemant M. Prachchhak, J

1. Present petition is filed by the petitioner under Articles 226 and 227 of the Constitution of India challenging the impugned award dated 20.01.2022 passed in Reference [L.C.B] Case No. 61 of 2024 by the learned Presiding Officer, Labour Court No.1, Bhavnagar (hereinafter be referred to as "the Labour Court") whereby the Labour Court has party allowed the reference and directed the respondent to pay Rs.50,000/- towards compensation in lieu of reinstatement, back wages, continuity of service and other service benefits as full and final settlement.

2. Brief facts of the present case are that the petitioner – workman was appointed as driver by the respondents on permanent post, after following the process of recruitment Rules and Regulations and, therefore, he was working since 14.07.1998 and he demanded his legitimate requirements and benefits i.e. Muster-Card, Pay Slip and Identity Card etc, on the contrary, the respondents paid less remuneration, due to which, the workman was terminated with effect from 31.08.2001 without any reason.

2.1 Against the said inaction on the part of the respondents, the petitioner had filed I.D.R. Case No. 13 of 2024, wherein, no settlement had arrived at between the parties and ultimately, the petitioner had preferred aforesaid reference case before the Labour Court, which came to be partly allowed and awarded compensation to the tune of Rs.50,000/- in lieu of reinstatement, back wages, continuity of service and other service benefits as full and final settlement.

3. Being aggrieved and dissatisfied with the impugned award, the petitioner has preferred the present petition.

4. Heard Mr. M. A. Parekh, learned counsel for the petitioner and Mr.H. S. Munshaw, learned counsel for the respondents at length. Perused the material available on record.

5. Mr.Parekh, learned counsel for the petitioner has submitted the same facts which are narrated in the memo of petition and has further submitted that the Labour Court has committed an error in partly allowing the reference. He has submitted that the Labour Court has not properly appreciated the decisions of the Hon'ble Supreme Court as well as this Court and committed an error in awarding lump sum compensation at Rs.50,000/-. He has also submitted that the action of the respondents in terminating the service of the petitioner is against the provisions of Section 25(F), (G) and (H) of the Industrial Disputes Act (for short "the Act") and, therefore, the petitioner is entitled to reinstate with continuity of service. He has submitted that the Labour Court ought to have passed the impugned award of reinstatement along with the back wages instead of awarding lump sum amount of Rs.50,000/-. He has submitted that the amount of compensation awarded by the Labour Court was not paid by the respondents. He has submitted that the petition deserves to be allowed and the impugned award deserves to be quashed and set aside.

6. Mr.Munshaw, learned counsel for the respondents has objected the petition and submitted that the Labour Court has not committed any error while awarding Rs.50,000/- towards lump sum compensation. He has submitted that there was no documentary evidence on record, while deciding the Reference, the Labour Court has come to the conclusion that there was breach of Sections 25(F), 25(g) and 25(H) of the Act. He has submitted that the Labour Court has partly allowed the Reference by awarding lump sum amount of compensation and, therefore, the same is just and proper and no interference is required to be called for.

7. Considering the submissions canvassed by learned counsel appearing for the respective parties and the impugned award passed by the Labour Court, it appears that the Labour Court has rightly appreciated the evidence while coming to the conclusion and without there being any rebuttal, on the other hand, the Labour Court has awarded Rs.50,000/- which is erroneous. In view of the decision of the Hon'ble Supreme Court in the case of Maharashtra State Cooperative Marketing Federation Limited Versus Suresh S/o Dadarao Gadge reported in (2015) 4 SCC 542 and the oral order dated 18.04.2024 passed by the

Division Bench of this Court in Letters Patent Appeal No. 908 of 2023 and allied appeals more particularly para – 10, this Court is of the opinion that the purpose would be served if lump sum amount of Rs.3,00,000/- awarded by the Labour Court is required to be enhanced.

8. The relevant para – 10 of the oral order dated 18.04.2024 passed by the Division Bench of this Court in Letters Patent Appeal No. 908 of 2023 and allied appeals reads thus:-

“10. Having come to the conclusion that the lump sum compensation would be appropriate remedy for the families of the deceased workmen, the other aspects which comes for consideration is quantum of lump sum compensation. Though learned advocate Mr. Bhatt has contended that there was delay in preferring the complaint and the subsequent reference, it can be observed from the pleadings that the averments with regard to delay and laches in preferring the reference were not made before the labour court as well as the learned Single Judge. Therefore, the argument of learned advocate Mr. Bhatt with regard to delay and laches in preferring reference cannot be countenanced and what needs to be seen is that almost all the workmen have put in 16-20 years of service for the respondent and their services were terminated without following due procedure of law. Therefore, the families of the deceased workmen needs to be compensated proportionally as to the number of years of service put in by them. However, in order to balance the equation, we have considered to give effect of delay in preferring the reference while enhancing the amount of compensation. Thus, while calculating the number of years of services, we proposed to deduct the number of years service for which there is delay in preferring reference. After deduction of such number of service, we propose to give compensation in the following tabular form:

Sr.No.

Total no. of years for lump sum compensation

Amount of lump sum compensation

1

5 to 10 years

Rs.3.00 lacs

2

10-15 years

Rs.5.00 lacs

3

15-20 years

Rs.7.5 lacs

9. Now, considering the materials placed on record and the peculiar facts of this case, this Court is of the opinion that instead of granting any back wages and reinstatement in service as prayed for, it would be just and proper to pay lump sum compensation of Rs.2,50,000/- to the workman, which will serve the ends of justice.

10. With the aforesaid conclusion, the petition stands allowed in part. The impugned award passed by the Labour Court is hereby quashed and set aside and the award is modified accordingly. An amount of Rs.2,50,000/- as lump sum compensation and amount of Rs.50,000/- awarded by the Labour Court shall be paid to the workman by the employer after proper verification of the identity and bank details through RTGS within a period of eight weeks from the date of receipt of the writ of this order. There shall be no order as to costs.