

(2019) 07 GUJ CK 0151
In the Gujarat High Court

Case No : R/Special Civil Application No. 4053 Of 2010

Karimkha Aarabkha Jalwani

APPELLANT

Vs

Taluka Development Officer

RESPONDENT

Date of Decision : 10-07-2019

Acts Referred:

Industrial Disputes Act, 1947 — Section 17B, 25F

Citation : (2019) 07 GUJ CK 0151

Hon'ble Judges : G.R. Udhwani, J

Bench : Single Bench

Advocate : Shakti S Jadeja, Hs Munshaw, Devang Bhatt

Final Decision : Partly Allowed

Judgement

1. Judgment and award dated 07.11.2010 rendered by the Labour Court, Rajkot, in Reference (LCR) No. 553 of 1993 is sought to be assailed principally on the ground that despite the findings in favour of the petitioner - workman, he was inadequately compensated with compensation of Rs.5,000/- only; in lieu of continuity of service, reinstatement, backwages and other benefits.

2. On consideration of the rival submissions it would appears that undisputedly the petitioner was employed with the respondent-employer for about 21 months and came to be terminated for want of work. Concededly, he was a daily wager at the rate of Rs.40/- per day. It is also not disputed that the employer has not challenged the award. The workman has already reached the age of superannuation on 28.08.2008.

3. For denying the reinstatement to the workman, the duration of his employment, want of vacancy in the set-up, payment of wages under the orders of the court upto 28.02.1988 without work as also the delay in pursuing the matter by the workman were considered. While there can be no reason to interfere with such findings, this court is of the view that the workman was entitled to much more compensation than what has been awarded to him. In

justification thereof, this court may refer to Deputy Executive Engineer G.W.S. And S. Board v. Natwarlal Motibhai Prajapati [2018(0) AIJEL-HC 239473 : 2019 LabIC 310] where the workman - a chowkidar of the store who worked only for three years and seven months and who was awarded continuity of service after holding the employer liable for the breach of Section 25F of the Industrial Disputes Act (for short "I.D.Act"), came to be awarded Rs.3,50,000/- in lieu of reinstatement and backwages over and above the wages paid to him under Section 17B of the I.D.Act. In the instant case the workman is not entitled to get lump-sum compensation of Rs.3,50,000/- for the simple reason that the duration of the work herein is almost half than what was rendered by the workman in Natwarlal Motibhai Prajapati (supra). In the opinion of this court, the award of lump-sum compensation of Rs.2,00,000/- would meet the ends of justice. Accordingly ordered.

Accordingly the impugned judgment and award is modified. The petition is partly allowed. Rule is made absolute to the aforesaid extent. Direct service is permitted.