

(2005) 02 GUJ CK 0036

In the Gujarat High Court

Case No : Letters Patent Appeal No's. 186 to 193 of 2005 in Special Civil Application No's. 2624, 2627, 2629, 2631, 2633, 2645, 2647 and 3573 of 2004 with Civil Application No's. 1183, 1184, 1185, 1186, 1187, 1188, 1189 and 1190 of 2005

Lallubhai Bapujibhai Parmar

APPELLANT

Vs

Panchmahal District Panchayat

RESPONDENT

Date of Decision : 23-02-2005

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1), 33C(2), 33C(4)

Citation : (2006) 108 FLR 704 : (2005) 3 GLR 1907 : (2006) 1 LLJ 366

Hon'ble Judges : M.S. Shah, J;D.H. Waghela, J

Bench : Division Bench

Advocate : D.A. Surani, for the Appellant; H.S. Munshaw, for Respondent Nos. 1-2, for the Respondent

Judgement

M.S. Shah, J.—At the oral request of the learned counsel for the appellants, leave to delete respondent Nos. 3 and 4.

2. Admit. Mr Hemant Munshaw, learned counsel for respondent Nos. 1 and 2 waives service of notice of admission of the appeals.

In the facts and circumstances of the case and with the consent of the learned counsel for the parties, the appeals are taken up for final disposal today.

3. This group of eight appeals challenges the common judgment dated 19.8.2004 of the learned Single Judge by which the separate petitions filed by the Panchmahals District Panchayat challenging the recovery certificates issued by the Labour Court, Panchmahals at Godhra are ordered to be set aside on the ground that the eight recovery applications filed by the appellants u/s 33C(2) of the Industrial Disputes Act, 1947 ("the Act" for short) were not maintainable and also on the ground that the recovery applications were premature and, therefore, the Labour Court had committed a serious error of law.

Facts leading to filing of the petitions

4. Since the judgment under appeal does not set out the complete and relevant history of the litigation, it is necessary to set out all the relevant facts leading to filing of the appeals as the facts have vital bearing on the controversy between the parties and also the reliefs to be moulded by this Court.

4.1 The appellants herein filed recovery application Nos. 3 to 10 of 1995 before the Labour Court at Godhra u/s 33C(2) of the Act claiming all the monetary benefits under the Government Resolution dated 17.10.1988 issued by the State Government in the Roads & Buildings Department conferring benefits on the daily wagers who have put in more than five years' service. The recovery applications were filed by the appellants for recovery certificates for the monetary benefits under the aforesaid Government Resolution for the period from 1990-91 to 1993-94 as, according to the appellants, all of them had completed five years' continuous service prior to 1990-91. Each of the appellants had, therefore, prayed for recovery certificate for a sum of Rs. 52,296/-. Although the recovery applications were filed in the year 1995 and the respondents were duly served and the Deputy Executive Engineer did even appear before the Labour Court and submitted adjournment application Exh. 4, the respondent-panchayat authorities did not file any reply to the recovery applications. On behalf of the appellants, Shanabhai Parmar was examined as a witness, and other appellants filed affidavits in support of their respective claims. Since none appeared for the employer, the evidence was closed. The respondents were also served with the notices calling upon them to lead evidence. Even then, the respondents did not appear. Even after the written arguments of the appellants were submitted before the Labour Court and a copy of such written arguments was also sent to the respondent-employer by RPAD (RPAD slip Exh.13), the respondents did not appear before the Labour Court. On the basis of the evidence led before the Labour Court, including the oral evidence of Shanabhai Parmar and the affidavits filed by all individual workmen, the Labour Court rendered the common order dated 23.2.2000 directing the respondent authorities to pay each of the appellants a sum of Rs. 52,296/- within thirty days alongwith costs of Rs. 500/- in each case to be paid to the workers' union.

4.2 The aforesaid common order came to be challenged by the respondents before this Court by filing Special Civil Application Nos. 6407 and 6409 to 6414 of 2000. It appears that at the hearing of the said petitions before a learned Single Judge of this Court (Coram : Hon"ble Mr Justice PB Majmudar) on 4.10.2001, the petitioners therein (i.e. the panchayat authorities) produced the affidavits filed by the concerned workmen all of which affidavits were affirmed before a Notary Public at Godhra on 3.10.2001. All the affidavits were identically worded and stated that the workmen were paid all the benefits under the Government Resolution dated 17.10.1988 and they were also paid the arrears of difference of wages and, therefore, they had no grievance and would not make any claim in future and would not go to any Court and that they were voluntarily

withdrawing their recovery applications by way of settlement of the Court case and that they did not want to take any steps regarding the writ petition pending before the High Court. On the basis of the aforesaid affidavits and the statement of the learned counsel appearing for the panchayat authorities in that group of petitions, the learned Single Judge permitted the panchayat authorities to withdraw the petitions on the basis that the petitions had become infructuous. The learned Single Judge, however, clarified as under :-

"It is clarified that in case, it is found that the dispute as such is not settled between the parties, it will be open for the petitioners (i.e. panchayat authorities) to revive these petitions and at present this Court has permitted the petitioners to withdraw these petitions in view of what is stated above."

4.3 It appears that when the appellant-workmen realized that what they were paid by the panchayat authorities were the amounts computed by the authorities as payable to the workmen for the period from 1.4.2000 onwards, the workmen filed Application Nos. 8 to 15 of 2002 under sub-section (4) of Section 33C of the Industrial Disputes Act for recovery of their dues for the period from 1990-91 to 1993-94 for which the orders were already passed by the Labour Court on 23.2.2000.

As per the record and proceedings of the Labour Court, the notices on the said applications were served on the panchayat authorities and inspite of four adjournments granted by the Labour Court, none appeared before the Labour Court at the hearing of those applications and, therefore, on 29.9.2003 the Labour Court allowed the said applications filed in the year 2002 and ordered issuance of recovery certificates for a sum of Rs. 52,296/- in each case. On the basis of the said order, the Labour Court issued recovery certificates dated 9.10.2003 for the aforesaid amounts and the Mamlatdar, Godhra initiated recovery proceedings by notices dated 30.1.2002 under the provisions of the Gujarat Public Money Recovery Act, 1890.

4.4 The panchayat authorities thereupon filed fresh petitions being Special Civil Application Nos. 3573 of 2004 and connected matters, without moving the learned Single Judge for revival of Special Civil Application Nos. 6407 of 2000 and connected matters.

5. Orders passed in the petitions

5.1 It appears that when the present group of petitions reached preliminary hearing, a learned Single Judge of this Court (Coram : Hon''ble Mr Justice Jayant Patel) issued Rule on the petitions and also issued notice calling upon the learned Judge of the Labour Court, Godhra to explain as to why appropriate orders should not be passed for inquiry on the administrative side for passing orders dated 29.9.2003 without issuing notice to the District Panchayat and also calling upon the workmen to explain as to why appropriate proceedings should not be initiated against them for suppression of the order dated 4.10.2001 passed by this Court in Special Civil Application Nos. 6407 of 2000 and connected matters.

5.2 The learned Judge of the Labour Court, Godhra submitted his explanation that the recovery applications were filed in the year 2002 and notices were issued to the panchayat authorities on 29.11.2002 and that the notices were served on 3.2.2003, but inspite of giving four adjournments, the panchayat authorities did not appear and, therefore, he was constrained to pass the orders dated 29.9.2003. The said explanation was accepted by another learned Single Judge of this Court (Coram : Hon"ble Mr Justice Akil Kureshi) as per the order passed on 16.6.2004. The said learned Single Judge did, however, observe that the Labour Court erred in not verifying the correct position with reference to the orders passed by this Court on 4.10.2001 in the earlier round of litigation. The learned Single Judge observed in the said order that regarding the conduct of the workmen, the Court taking up the matters for final hearing would go into that question and pass appropriate orders in that regard.

5.3 In response to the Rule issued by this Court, the workmen (the respondents before the learned Single Judge and appellants herein) filed affidavit in reply dated 2.4.2004 pointing out that the recovery applications on which the Labour Court, Godhra had passed orders on 29.9.2003 were filed in 2002 and that on 3.2.2003 the panchayat authorities were served with the notices issued on the said recovery applications and inspite of four adjournments granted, the panchayat authorities had not cared to appear before the Labour Court. The workmen also pointed out that they were not given copies of the affidavits dated 3.10.2001 and that on 31.7.2002 the workmen filed affidavit stating that the affidavits dated 3.10.2001 were obtained from the workmen fraudulently by asking the workmen to sign the affidavits without informing them about the contents or giving them copies of the affidavit, but simply by stating that their signatures are required for payment.

5.4 We, however, find from the judgment of the third learned Single Judge who heard the petitions finally that no reference is made to the orders dated 27.2.2004 and 16.6.2004 regarding the explanation to be given by the workmen and the explanation given by the workmen about the affidavits dated 3.10.2001 and the order dated 4.10.2001. In fact, in the entire judgment under appeal, there is no reference to the affidavit dated 2.4.2004 of Lallubhai Parmar, one of the eight appellants herein. The eight petitions of the panchayat authorities are allowed and the orders passed by the Labour Court on 29.9.2003 for issuance of recovery certificates are quashed and set aside only on the ground that the recovery applications were not maintainable u/s 33C(2) of the Act as there was no pre-existing right in favour of the workmen and that first the workmen were required to get adjudication of their entitlement for the amounts in question. The learned Single Judge held that-

"The Labour Court concerned in the impugned award, in each petition, has committed serious error of law as the recovery order is passed u/s 33C(2) on the hypothesis and a notional premise that each workman is entitled to the benefits of certain rights, monetary, as well as, non-monetary, arising out of the

Government Resolution dated 17.10.1988. In the said Government Resolution dated 17.10.1988, the Government has accepted the recommendation of the Committee, appointed in this behalf, for granting requisite and necessary benefits to the casual labourers working in certain departments of the Government. There are several categories provided in the said resolution and there are several conditions incorporated in the said resolution. Unless and until it is, successfully, shown by and upon the investigation of fact, which varies from person to person, as to which category is attracted and what benefit will flow, there cannot be an entitlement of monetary benefit, without proper examination, evaluation and adjudication or by settlement or by award of the competent authority, which is conspicuously absent in this group of petitions."

The learned Judge also further observed in para 10 of the judgment as under :-

"It is an admitted fact that there is no adjudication; there is no Reference u/s 10(1); and, there has been no settlement. There is no investigation of facts even at the Department of the Government. Simply because certain employees assumed certain facts, in such assumption of certain facts being accepted by the Labour Court, treating as crystallized rights arising out of the Government Resolution dated 17.10.1988, the Labour Court, with due respect, in its erroneous, unreasonable and irrational interpretation, granted benefit to each petitioner, and issuance of resultant Recovery Certificate u/s 33C(4) by the Revenue Recovery Officer."

5.5 In the result, the learned Single Judge allowed all the petitions of the panchayat authorities and quashed and set aside the orders dated 29.9.2003 "leaving it open to the respondent workmen to pursue appropriate legal redressal for the recovery".

It is against the aforesaid common judgment that the eight workmen are in appeal before us.

6. Contentions on behalf of the Appellants

6.1 Mr DA Surani, learned counsel for the appellants has submitted that when the panchayat itself had never disputed the applicability of the Government Resolution dated 17.10.1988 which conferred certain benefits on the workmen who have rendered 5, 10 and 15 years" service in the construction and maintenance works and the appellants have admittedly been working in the Roads and Buildings Division of the respondent District Panchayat, there was no need for the workmen to raise any industrial dispute or to get any reference made u/s 10(1) of the Act. The Government Resolution itself created certain rights in favour of the workmen who had put in the requisite length of service and, therefore, all that was required to be done was computation of monetary benefits under the said Government Resolution and that the recovery application u/s 33C(2) was certainly maintainable.

6.2 The learned counsel has further submitted that when the workmen had filed

their recovery applications in the year 1995 and the panchayat authorities were given more than adequate opportunity to file written statement, to lead their evidence and to argue their case, but they chose to remain absent after their Deputy Executive Engineer appeared and applied for adjournment on the first occasion and when all the workmen had led their evidence with the necessary details, and the Labour Court gave a reasoned judgment accepting the workmen's claim and issuing the certificates, the learned Single Judge was not justified in observing that there is no adjudication; there is no investigation of facts and that certain employees had simply assumed certain facts. It is submitted that the workmen could not have done anything more than to move the Labour Court for computation of benefits under the Government Resolution dated 17.10.1988 and to lead their evidence. Non-appearance of the panchayat would obviously result into the facts stated by the workmen being accepted by the Labour Court.

6.3 It is further submitted that the legal dues were computed by the Labour Court earlier in the year 2000 for the period from 1990-91 to 1993-94 aggregating to Rs. 52,296/- and the panchayat authorities had not paid a single farthing to the workmen towards the said dues. Certain payments made by the panchayat authorities in the year 2001 were for the period from 1.4.2000 and not for any prior period. Hence, the workmen had stated that they had not received all the benefits under the Government Resolution dated 17.10.1988. When they were made the payments for the period from 1.4.2000, they were required to sign an affidavit on 3.10.2001 without their being apprised about the contents of the affidavit which purported to waive their rights under the Government Resolution dated 17.10.1988 for all the periods.

6.4 It is, therefore, submitted that the appellants had not suppressed any material facts as the appellants had stated that the orders allowing the recovery applicants earlier were challenged before the Hon'ble High Court and those writ petitions were withdrawn, but the amounts covered by the said recovery applications were not paid to the workmen either in cash or by money order or demand draft. Hence, the workmen will still be entitled to get the amounts as per the recovery certificates issued in application Nos. 8 to 15 of 2002.

Submissions on behalf of the Respondents

7. On the other hand, Mr Hemant Munshaw, learned counsel for the respondent authorities has submitted that when the entire controversy was concluded by the judgment dated 4.10.2001 in SCA No. 6407 of 2000 and connected petitions wherein the workmen's affidavits were taken on record and the workmen had admitted that they had received all the dues under the Government Resolution dated 17.10.1988 and they had no other claim and that the learned counsel for the workmen had also made it clear that they had no objection if the panchayat authorities were permitted to withdraw the petitions, nothing further was required to be done by the Labour Court and that the application Nos. 8 to 15 of 2002 were not at all maintainable and were required to be dismissed with costs.

The learned counsel has submitted that there was suppression of material facts by the workmen while filing recovery application Nos. 8 to 15 of 2002 and, therefore, the appeals may be dismissed with costs.

Were the Recovery Applications maintainable ?

8. The only ground which has weighed with the learned Single Judge for allowing the petitions of the District Panchayat and setting aside the orders dated 29.9.2003 of the Labour Court is that there was no pre-existing right in favour of the workmen and, therefore, without any adjudication in a reference u/s 10(1) of the Industrial Disputes Act, the Labour Court could not have made any order for issuance of recovery certificates for benefits arising out of the Government Resolution dated 17.10.1988.

The question of maintainability of the recovery applications would have been of any consequence and relevance only if the district panchayat had contended that the Government Resolution dated 17.10.1988 was not applicable to the district panchayat or that the workmen were not employed by the district panchayat for any activity like construction and maintenance. Apart from the fact that the district panchayat had not raised any such dispute in any previous round of litigation, the case of the district panchayat itself is that the Government Resolution dated 17.10.1988 is applicable to the appellant-workmen, but they were entitled to the benefits under the said resolution only with effect from 1.4.2000. Even according to the district panchayat, the workmen were paid the benefits under the said Government Resolution dated 17.10.1988 with effect from 1.4.2000 and the controversy between the parties, therefore, merely was whether the workmen were entitled to the benefits of the said Government Resolution for the period from 1990-91 to 1993-94 or any other period between 1990-91 and 31.12.1999. The pre-existing right of the workmen flowing from the Government Resolution dated 17.10.1988 was, therefore, not disputed. Since the said Government Resolution stipulated that in order to get the minimum of the pay-scale the workman should have completed atleast five years" service with minimum 240 days" service in each year as contemplated by Section 25B of the Industrial Disputes Act, 1947, such provision did not detract from the fact that the workmen had pre-existing right to get the benefit of the Government Resolution dated 17.10.1988 upon fulfillment of the requirements stipulated in the said Government Resolution. When the specific jurisdiction is conferred on the Labour Court for passing an order u/s 33C(2) in favour of the workmen for recovery of dues and such jurisdiction is conferred in order to provide expeditious and inexpensive remedy to the workmen, the very object of such expeditious and inexpensive remedy u/s 33C(2) cannot be defeated by holding that the Labour Court could not have considered the question of implementation of the Government Resolution dated 17.10.1988 in case of the appellant-workmen without their first getting adjudication u/s 10(1) of the Act. The workmen were employed by the district panchayat way back in the year 1973. When the workmen completed five years" service with minimum 240 days" service in each

year between 1973 and 1990 or similar inquiry would be made on the basis of such material as may be produced by the authorities before the Labour Court. Such inquiry does not require any adjudication of the question whether the Government Resolution dated 17.10.1988 was applicable to the district panchayat or whether the workmen were covered by the said Government Resolution, when admittedly the district panchayat itself has given the benefits of the said Government Resolution to the appellant-workmen, albeit with effect from a subsequent date and not from the date from which such benefits were claimed by the workmen. As per the settled legal position, Section 33C(2) is more comprehensive than Section 33C(1). Section 33C(2) applies not only to cases of settlement or award or cases under Chapter VA of the Act, but to other cases as well. By a process of computation or calculation to be applied by it, the Labour Court has to determine the amount due. We are, therefore, clearly of the view that the recovery applications filed by the appellant-workmen were certainly maintainable u/s 33C(2) of the Industrial Disputes Act, 1947 and that the applications were certainly not premature.

Whether the workmen had filed second set of recovery applications even after receiving payments?

9. The next question is whether the workmen had filed second set of recovery applications even after receiving payments pursuant to the first set of recovery applications. We find considerable substance in the submission made by Mr Surani for the appellant-workmen that since they had not received any amounts towards their outstanding claim for the period from 1990-91 to 1993-94, covered by the orders in recovery application Nos. 3 to 10 of 1995 which were never set aside by this Court, payment of any amounts for the period after 1.4.2000 could not have been treated as payment against the orders in recovery applications of 1995. Hence, the second set of applications filed in 2002 for effecting recovery of the amounts covered by the earlier orders for the period from 1990-91 to 1993-94 were maintainable.

Was there any suppression of material facts by the workmen ?

10. We find that on account of their negligence at every stage, the panchayat authorities have dragged the appellants herein into unnecessary litigations one after another. In the first place, the panchayat authorities even after being served with the notices of recovery applications filed in the year 1995, did not choose to file written statement or to lead evidence or to submit any arguments inspite of the fact that the Labour Court had gone out of its way to serve notices upon the panchayat authorities even after the workmen had led their oral evidence and also after the workmen submitted their arguments, but the panchayat authorities did not turn up even after the workmen submitted their written arguments. In spite of such indulgence granted by the Labour Court, the panchayat authorities did not appear before the Labour Court and the Labour Court was constrained to pass the orders in the year 2000. When those orders were challenged in the writ petitions filed before this Court in the year 2000, it

appears that the hearing of those petitions was fixed on 4.10.2001 and it also appears that on that very day the panchayat authorities produced the affidavits dated 3.10.2001 of the eight workmen stating that they have received all their amounts under the Government Resolution dated 17.10.1988 and that they were ready to withdraw their recovery applications and that they gave up all their claims and would not go to any Court in future. It thus appears that neither the learned advocate who appeared for the workmen (respondents in that group) before this Court nor the learned advocate appearing for the panchayat authorities before this Court nor the Court hearing those matters was given any time to verify the statements coming from the panchayat authorities that all the workmen were paid their dues under the Government Resolution dated 17.10.1988. It is not clear from the order dated 4.10.2001 where and whether the panchayat authorities had produced the statement of computation which is produced at Annexure "C" in the present round of litigation stating that the workmen had completed five years" service only on 1.4.2000. The Court had, therefore, no opportunity to consider or to require the learned advocate for the workmen to verify whether the workmen had received all the benefits under the Government Resolution dated 17.10.1988. This Court was not even called upon to set aside the orders which were issued by the Labour Court in the year 2000, but on the contrary the Court was informed that the petitions had become infructuous and were, therefore, required to be disposed of on that basis. One would, therefore, be led to believe that all the amounts payable to the workmen under the Government Resolution dated 17.10.1988 for the period from 1990-91 to 1993-94 were paid or must have been paid and, therefore, the petitions had become infructuous. The panchayat authorities did not point out before the learned Single Judge that the petitions which were being disposed of on 4.10.2001 were in respect of the dues determined for the period from 1990-91 to 1993-94 and that the workmen were not entitled to any payments for the said period, but they became eligible to get benefits under the Government Resolution only for the period from and after 1.4.2000. In spite of admitting that the aforesaid omissions had led the Court into passing the orders dated 4.10.2001 disposing of the petitions in the earlier round of litigation, Mr Hemant Munshaw for the panchayat authorities is now contending that the workmen had suppressed material facts before the Labour Court and had obtained the orders for recovery certificates on 29.9.2003 without any notice being issued to the panchayat authorities.

11. As already indicated earlier and according to the findings given by the learned Single Judge (Hon"ble Mr Justice Akil Kureshi) on 16.6.2004, the second round of applications was initiated by the workmen on 20.11.2002 and the notices issued by the Labour Court on the applications were already served on the panchayat authorities and the Labour Court had given as many as four opportunities to panchayat authorities to appear and defend their case in the proceedings before it, but even in this round of proceedings the panchayat authorities remained negligent and did not come forward with any defence either

in writing or orally. The Labour Court was, therefore, left with no other alternative, but to issue the recovery certificates as prayed for by the workmen.

12. If at all there was any suppression of material facts, it was on the part of the panchayat authorities who obtained the affidavits of the workmen on 3.10.2001 and produced the same before the Court on 4.10.2001 and obtained the orders of the learned Single Judge on the same day without giving any time to the workmen or their learned counsel or even to the learned counsel for the District Panchayat to verify the contents of the affidavits of the workmen, which appear to have been drafted at the instance of the authorities rather than at the instance of the workmen.

13. The submission made by the learned counsel for the respondent authorities that instead of filing second set of applications before the Labour Court, the workmen could have moved this Court for revival of SCA Nos. 6407 of 2002 and connected matters sounds very strange when one considers the fact that the said petitions were filed by the panchayat authorities for challenging the earlier orders passed by the Labour Court for determination of the dues and this Court had never set aside those orders, but had merely disposed of the petitions as infructuous. If the learned Single Judge while disposing of those petitions on 4.10.2001 had set aside the common order dated 23.2.2000 of the Labour Court determining the dues, then only the workmen would have been required to move this Court for review of the order dated 4.10.2001.

14. Even though we propose to dispose of the appeals by setting aside the judgment dated 19.8.2004 of the learned Single Judge for the reasons indicated earlier and with liberty to the respondent authorities to move the Labour Court for setting aside the orders dated 29.9.2003, we have deemed it necessary to examine the facts in some detail and to make the aforesaid observations as an impression was sought to be created by the learned counsel for the panchayat authorities that the workmen had surreptitiously obtained orders from the Labour Court on 29.9.2003 without any notice being issued to the panchayat authorities and without pointing out the orders dated 4.10.2001 of the learned Single Judge of this Court in the previous round of litigation and the affidavits filed therein. The submission of the learned counsel for the panchayat is, therefore, negatived.

Reliefs to be granted

15. In view of the above discussion, obviously the common judgment dated 19.8.2004 of the learned Single Judge will have to be set aside. The question is whether the petitions of the panchayat challenging the orders dated 29.9.2003 of the Labour Court for issuance of recovery certificates should be entertained i.e. whether the said orders of the Labour Court should be set aside. Since, as indicated earlier, those orders dated 29.9.2003 were not passed without issuing any notice to the panchayat authorities, the said orders dated 29.9.2003 are not required to be straightaway set aside unless the panchayat authorities give some explanation for not appearing before the Labour Court inspite of service of

notices. We would have considered this aspect if such explanation had been offered in the writ petitions filed by the district panchayats for challenging the aforesaid orders of the Labour Court. We, however, find from the memo of the said petitions that the panchayat authorities have not offered any explanation whatsoever for not appearing before the Labour Court and the panchayat authorities had all along only contended that the Labour Court passed ex-parte orders dated 29.9.2003 for issuance of recovery certificates without giving any opportunity of hearing to the panchayat authorities. Since we have found that the Labour Court had issued notices to the panchayat authorities, it would be appropriate to relegate the panchayat authorities to the remedy available to them for moving the Labour Court with an application to set aside the orders dated 29.9.2003 and the consequential recovery certificates dated 9.10.2003.

16. In view of the fact that the workmen had made their claim for the amounts in question as far back as in the year 1995 and that they have been dragged into five rounds of litigation, apart from directing the Labour Court, Panchmahals at Godhra to hear and decide the application of the respondents for setting aside the orders dated 29.9.2003 expeditiously, the respondent authorities are also required to be directed to pay each of the workmen the costs quantified at Rs. 5,000/= (Rupees five thousand) per workman.

O R D E R S

17. In the result, the appeals are allowed in the following terms :-

(A) The common judgement dated 19.8.2004 of the learned Single Judge is set aside. Special Civil Application Nos. 3573, 2633, 2624, 2647, 2627, 2629, 2631 and 2645 of 2004 are hereby dismissed.

(B) However, the respondent-panchayat authorities shall be at liberty to move the Labour Court with applications for setting aside the order dated 29.9.2003 and the consequential certificates and if such applications are made by 31st March, 2005, the Labour Court, Panchmahals at Godhra shall consider the same on merits and in accordance with law.

(C) If the applications of the respondents for setting aside the orders dated 29.9.2003 are allowed in accordance with law, with such orders as to costs or deposit as may be found necessary, the Labour Court shall hear and decide the recovery applications on all issues about computation of benefits payable to the workmen under the Government Resolution dated 17.10.1988 as amended by subsequent Government Resolutions, if any, but we make it clear that in any case the recovery applications are to be treated as maintainable u/s 33C(2) of the Act and also on the basis that the Government Resolution dated 17.10.1988 is applicable to the appellant-workmen.

[It is also clarified that the payments received by the workmen for the period from 1.4.2000 onwards shall not come in the way of the appellants making their claim for benefits for any prior period under the Government Resolution dated

17.10.1988].

(D) The Labour Court, Panchmahals at Godhra shall decide the controversy between the parties as expeditiously as possible and in any case shall conclude the litigation within four months from the date of receipt of the writ of this Court.

(E) The respondent panchayat authorities shall pay the appellants costs of these appeals quantified at Rs. 5,000/- (Rupees Five thousand only) to each workman. The amounts shall be paid to the workmen by account payee cheques by 31.3.2005 and the applications to be made by the panchayat authorities for setting aside the orders dated 29.9.2003 shall be entertained by the Labour Court only after the panchayat produces the proof of having paid the eight workmen the costs quantified at Rs. 5,000/- to each workman.

18. Since the appeals are allowed, the Civil applications do not survive and are disposed of accordingly.