

(2015) 06 GUJ CK 0044
In the Gujarat High Court
Case No : L.P.A. No. 844 of 2015

Manjibhai Gandabhai

APPELLANT

Vs

Surendranagar Dist. and Others

RESPONDENT

Date of Decision : 08-06-2015

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F, 25G

Citation : (2015) 147 FLR 99 : (2015) 3 LLJ 335

Hon'ble Judges : M.R. Shah, J;G.R. Udhwani, J

Bench : Division Bench

Advocate : Farhana Y. Mansuri, for the Appellant

Final Decision : Dismissed

Judgement

M.R. Shah, J—Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the learned Single Judge dated 10/03/2015 in Special Civil Application No. 10265/2007 by which the learned Single Judge has allowed the Special Civil Application preferred by the respondent-employer and has quashed and set aside the judgment and award passed by the learned Labour Court granting reinstatement and instead awarded lumpsum compensation quantified at Rs. 10,000/-, the appellants-original respondents-heirs and legal representatives have preferred the present Letters Patent Appeal. We have heard Ms. Farhana Mansuri, learned advocate appearing on behalf of the appellants. The original workman-daily wager worked only for 22 days with the respondent-District Panchayat. After a period of approximately 13 years from the date of his alleged termination, the workman raised an industrial dispute alleging breach of Section 25F and G of the Industrial Disputes Act raising industrial dispute through Reference (LCS) No. 310/1992. The learned Labour Court vide judgment and award dated 29/08/2002 allowed the said Reference and directed reinstatement with continuity and full backwages.

Feeling aggrieved and dissatisfied with the order passed by the learned Labour Court, the respondent preferred Special Civil Application No. 17312/2003 before

this Court and the learned Single Judge allowed the Special Civil Application and remanded the matter back to the learned Labour Court to consider whether there was any breach of Section 25G and H of the Industrial Disputes Act. At this stage, it is required to be noted that even in the earlier round of litigation it was specified that there is no breach of Section 25G and H of the Industrial Disputes Act though the workman worked only for 22 days. Thereafter, on remand, the learned Labour Court held that there was no breach of Section 25G and H of the Industrial Disputes Act and consequently directed the respondent to reinstate the workman in service with continuity but without backwages.

Feeling aggrieved and dissatisfied with the impugned judgment and award passed by the learned Labour Court ordering reinstatement with continuity of service but without back-wages, the respondent herein preferred Special Civil Application No. 10265/2007 and by the impugned judgment and order the learned Single Judge has allowed the said Special Civil Application and has as such modified the judgment and award passed by the learned Labour Court quashing and setting aside the order of reinstatement awarding lumpsum compensation in lieu of reinstatement quantified at Rs. 10,000/-.

Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the learned Single Judge, the appellants-heirs and legal representatives of the original workman have preferred the present Letters Patent Appeal.

2. Having heard the learned advocate appearing on behalf of the appellants-heirs and legal representatives of the original workman and considering the impugned judgment and order passed by the learned Single Judge and considering the fact that the original workman worked for a period of 22 days only and that to as a daily wager between April, 1979 to July, 1979 and considering the fact that the alleged termination was in the year 1985 and the industrial dispute was raised after a period of seven years from the date of the alleged termination, it is required to be noted that as such and as per the finding recorded by the learned Single Judge the original workman failed to prove that he worked for the period between April, 1979 to July, 1979 and, therefore, it cannot be said that the learned Single Judge has committed any error in allowing the aforesaid Special Civil Application and quashing and setting aside the direction issued by the learned Labour Court ordering reinstatement and lumpsum compensation quantified at Rs. 10,000/-. As such, the aforesaid is absolutely in consonance with the decisions of the Hon''ble Supreme Court in the case of Jagbir Singh Vs. Haryana State Agriculture Marketing Board and Another, AIR 2009 SC 3004 : (2009) 122 FLR 665 : (2009) 9 JT 396 : (2009) 15 SCC 327 : (2010) 1 SCC(L&S) 545 : (2009) 10 SCR 908 : (2009) 5 SLR 606 : (2009) 8 UJ 3727 : (2009) AIRSCW 4824 : (2009) 5 Supreme 629 and in the case of Senior Superintendent Telegraph (Traffic) Bhopal Vs. Santosh Kumar Seal and Others, (2010) 3 LLJ 600 : (2010) 4 SCALE 333 : (2010) 6 SCC 773 . Even otherwise it is required to be noted that as such the original workman has already expired long back and, therefore, also there is no question of reinstatement. Considering

the aforesaid facts and circumstances of the case, there is no substance in the present Letters Patent Appeal and is accordingly dismissed.