

(2019) 07 GUJ CK 0147

In the Gujarat High Court

Case No : R/Special Civil Application No. 2685, 7871, 10075, 13501 Of 2012

STATE OF GUJARAT & 1 Other(S)

APPELLANT

Vs

GOVINDBHAI DESURBHAI

RESPONDENT

Date of Decision : 23-07-2019

Acts Referred:

Industrial Disputes Act, 1947 — Section 2A, 2(k), 10, 10(1), 25G, 25F, 25H
Constitution Of India, 1950 — Article 32, 226, 227

Citation : (2019) 07 GUJ CK 0147

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

Bench : Single Bench

Advocate : Ritu Guru, Bj Trivedi, Jt Trivedi, Jignasa B Trivedi

Final Decision : Allowed

Judgement

1. These petitions by the employer challenge different judgments and awards rendered by the Labour Court, Bhavnagar, in the facts and circumstances tabulated hereunder:

SCA

Nos.

Name of workman

Date of appointment

Nature of work

Date of termination

Date of demand notice

Date of reference

Date of Award

Case No.

10075

/2012

Bharatsinh Pravinsinh

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Chokidar- cum- Beldar

29-12-02

21-05-05

2008

11-10-10

LCB No.31

of 2008

7871/

2012

Arjanbhai Bhimabhai Dabhi

1998

Chokidar- cum- Beldar

2002

21-05-05

2008

11-10-10

LCB No.32

of 2008

13501

/2012

Himatbhai Lakhabhai Rathod

1992

Chokidar

30-04-03

23-06-10

18-08-10

26-05-11

LCB No.101

of 2010

2685/

2012

Govindbhai Desurbhai

1976

Daily Wager

1999

30-12-02

2003

29-04-11

LCB No.68

of 2003

Judgment and award by Labour Court, Bhavnagar in all the above cases.

2. As the broad facts in all the cases are almost identical, Special Civil Application No.10075 of 2012 is treated as lead matter and wherever necessary, the facts in relation to other petitions are separately indicated.

Special Civil Application No.10075 of 2012

3. The workman-Bharatsinh Pravinsinh claimed in his statement of claims that he was working continuously with the petitioner since 24 years with the last drawn wages at Rs.71.50 per day. In order to avoid the responsibility from the complaints by the workman complaining about exploitation and unfair labour practice, the petitioner discontinued recording the attendance of the workman in the muster roll, instead of it started paying them on vouchers until 29.12.2002. The grievance about non-maintaining of the seniority and breach of section 25G and 25H was also made by the workman in his statement of claims. It was his case that the termination was protested against and in presence of MLA Parbatsingh, assurance was given by Executive Engineer to reinstate the terminated workman; however, the promise was not kept and therefore, eventually industrial dispute was raised.

4. The petitioner in his written statement came out with the case that the workman's employment was need based and not continuous since 24 years as claimed by him and that he was not employed as Chokidar-cum- Beldar. It was

his case that the work was not of permanent nature and workman was working under direct instructions from the State Government and therefore was terminated pursuant to the circular dated 04.01.2000 which contemplated discontinuance of the laborers. It was also contended that being the daily wager, the services of the workman came to an end on daily basis and therefore, no question arose of terminating him from 29.02.2002. According to the petitioner, in the above circumstances, he was not obliged to comply with section 25F of the Industrial Disputes Act ('I.D. Act' for short). It was also contended in the written statement that maintaining of seniority list for daily wager was not obligatory since work was of casual nature.

5. The Labour Court perused the seniority list produced by the workman which contained following details:

Serial Number in Seniority list

Name

Date of appointment

1

Chhaganbhai Bachubhai Rathod

01-10-88

2

Khatabhai Narshibhai

01-10-91

3

Manubhai Zaverbhai Rathod

01-10-89

4

Girubha Jivubha Rathod

01-10-88

10

Ukabhai Bhanbhai Bhamar

01-10-88

11

Natubhai Mulchand Shah

01-10-88

12

Lalchand Mulchand Shah

01-10-88

13

Madhubhai Hathibhai Gohil

01-10-94

15

Chimanbhai Shivshankar Mehta

23-07-78

17

Pirbhai Asabhai Malek

16-07-82

18

Alikha Bapalkha Sukh

07-11-74

It came to the conclusion that persons who were juniors to the workman were continued in service and consequently, it recorded the finding that the petitioner was liable for breach of section 25G and 25H.

6. The issue of delay in raising dispute after about six years of the date of termination was answered against the petitioner while relying upon 2008 (1) L.L.N. 96 SC, more particularly para 8 which reads thus;

"8. It is to be seen that the authenticity of the muster-rolls produced was not questioned by the respondent-workman. Effect of a dispute raised after about 8 years was also not considered. It is not in dispute that the Labour Court cannot refuse to answer the reference because of delayed approach. But it can certainly modulate the relief. The High Court had not analyzed the factual position. The High Court, in fact, had failed to notice that the Labour Court had taken into account the actual days, when the respondent worked and the number of holidays to be taken into account. Thereafter it held that the workman had, in fact, worked for 220 days. Since there is a similar amount of confusion as to whether the holidays have been computed or not and whether the workman had actually worked for more than 240 days, we remit the matter to the Tribunal to compute the actual days for which the respondent had worked and then modulate the relief if any to be granted taking into account the delayed approach. We make it clear that we have not expressed any opinion on merits."

7. On consideration of the rival submissions, in the opinion of this Court, impugned judgment and award suffers from dual jurisdictional infirmities being;

(i) In absence of the material establishing the date of appointment of the workman, it was not possible and prudent to render the finding that the persons named by the workman in the list (supra) were junior to the workman and consequently finding recording breach of section 25G and 25H is also baseless.

(ii) In light of the pronouncement in *Prabhakar v. Joint Director, Sericulture Department and Another*; [(2015) 15 SCC 1]; the workman was under an obligation to establish that the dispute was alive on the date of reference which burden was not discharged by the workman. He only established that after a period of two and a half years of his termination, a demand notice was raised and further after a period of about 22 months of the demand notice, the industrial dispute was raised. Thus, from the date of termination, the industrial dispute was raised after about 5 years and 3 months. In view of *Prabhakar* (supra) the workman was required to demonstrate how the dispute was live on the date it was raised by him. Except raising the demand as above stated, no material was placed and no explanation was given by the workman as to how the dispute was alive after about five and a quarter years of his termination. The learned counsel for the respondent-workman however, attempted to distinguish *Prabhakar* (supra) while inviting the attention of this Court to its' paragraphs 27 to 29 which reads thus;

"27. In *Raghubir Singh v. General Manager, Haryana Roadways, Hissar*, this Court scanned through most of the available case law on the subject and emphasized that the words 'at any time' occurring in Section 10 of the Act would imply that law of limitation did not apply. On facts, the Court held that the State Government had rightly exercised its power and referred the dispute to Labour Court within reasonable time considering circumstances in which the Appellant therein was placed. In fact, the Court accepted the explanation for delay given by the workman in raising the dispute. In that case, it was found that there was a criminal case pending against the workman and further the Management had assured him that he would be reinstated on his acquittal. It was also noticed that even despite delay, there was no loss or unavailability of evidence due to the said delay.

28. The aforesaid case law depicts the following:

28.1 The law of limitation does not apply to the proceedings under the Industrial Disputes Act, 1947.

28.2 The words 'at any time' used in Section 10 would support that there is no period of limitation in making an order of reference.

28.3 At the same time, the appropriate Government has to keep in mind as to whether the dispute is still existing or live dispute and has not become a stale claim and if that is so, the reference can be refused.

28.4 Whether dispute is alive or it has become stale/non-existent at the time

when the workman approaches the appropriate Government is an aspect which would depend upon the facts and circumstances of each case and there cannot be any hard and fast rule regarding the time for making the order of reference.

29. If one examines the judgments in the aforesaid perspective, it would be easy to reconcile all the judgments. At the same time, in some cases the Court did not hold the reference to be bad in law and the delay on the part of the workman in raising the dispute became the cause for moulding the relief only. On the other hand, in some other decisions, this Court specifically held that if the matter raised is belated or stale that would be a relevant consideration on which the reference should be refused. Which parameters are to be kept in mind while taking one or the other approach needs to be discussed with some elaboration, which would include discussion on certain aspects that would be kept in mind by the courts for taking a particular view. We, thus, intend to embark on the said discussion keeping in mind the central aspect which should be the forefront, namely, whether the dispute existed at the time when the appropriate Government had to decide whether to make a reference or not or the Labour Court/ Industrial Tribunal to decide the same issue coming before it."

8. It is worth reproducing paragraphs 30 to 42.6 which read thus;

"30. In this process, let us first examine as to what would constitute 'industrial dispute' because of the simple reason that the appropriate Government has power to refer what is known as an 'industrial dispute' and likewise the Labour Court/Industrial Tribunal has jurisdiction to decide if there is an industrial dispute. We are not going into the entire gamut of what constitutes 'industrial dispute' within the meaning of Section 2(k) of the Act. Our focus is only on the aspect that what can be referred should be the dispute which is existing and in praesenti when the reference is sought. To put it otherwise, if it no longer remains an industrial dispute or industrial dispute 'does not exist' at that time, there would not be any question on making reference or adjudicating the matter as it is not an industrial dispute.

31. Section 2(k) of the IDA defines 'industrial dispute' and it reads as under:

'2. (k) 'industrial dispute' means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any persons;

32. As per Section 2A dispute relating to discharge, dismissal, retrenchment or termination of an individual are also deemed as industrial dispute and, therefore, an individual is given right to raise these disputes.

33. The term 'industrial dispute' connotes a real and substantial difference having some element of persistency, and likely, if not adjusted, to endanger the industrial peace of the community. The expression 'dispute or difference' as used in the definition, therefore, means a controversy fairly definite and of real

substance, connected with the employment or non-employment or with the terms of employment or the conditions of labour of any person, and is one in which the contesting parties are directly interested in maintaining the respective contentions.

34. To understand the meaning of the word 'dispute', it would be appropriate to start with the grammatical or dictionary meaning of the term:

"'Dispute': 'to argue about, to contend for, to oppose by argument' to call in question - to argue or debate (with about or over), - a contest with words; an argument; a debate; a quarrel;"

35. Blacks law dictionary, 5th Edition, page 424 defines 'dispute' as under:

A conflict or controversy; a conflict of claims or rights; an assertion of a right, claim or demand on one side, met by contrary claims or allegations on the other. The subject of litigation; the matter for which a suit is brought and upon which issue is joined, and in relation to which jurors are called and witnesses examined.

36. Thus, a dispute or difference arises when demand is made by one side (i.e. workmen) and rejected by the other side (i.e. the employer) and vice versa. Hence an 'industrial dispute' cannot be said to exist until and unless the demand is made by the workmen and it has been rejected by the employer. How such demand should be raised and at what stage may also be relevant but we are not concerned with this aspect in the instant case. Therefore, what would happen if no demand is made at all at the time when the cause of action arises? In other words, like in the instant case, what would be the consequence if after the termination of the services of Petitioner on April 01, 1985, the Petitioner does not dispute his termination as wrongful and does not make any demand for reinstatement for number of years? Can it still be said that there is a dispute? Or can it be said that workmen can make such demand after lapse of several years and on making such demand dispute would come into existence at that time. It can always be pleaded by the employer in such a case that after the termination of the services when the workmen did not raise any protest and did not demand his reinstatement, the employer presumed that the workmen has accepted his termination and, therefore, he did not raise any dispute about his termination. It can be said that workmen, in such a case, acquiesced into the act of the employer in terminating his services and, therefore, accepted his termination. He cannot after a lapse of several years make a demand and then convert it into a 'dispute' what had otherwise become a buried issue.

37. Let us examine the matter from another aspect, viz. laches and delays and acquiescence.

38. It is now a well recognised principle of jurisprudence that a right not exercised for a long time is non-existent. Even when there is no limitation period prescribed by any statute relating to certain proceedings, in such cases Courts have coined the doctrine of laches and delays as well as doctrine of acquiescence

and non-suited the litigants who approached the Court belatedly without any justifiable explanation for bringing the action after unreasonable delay. Doctrine of laches is in fact an application of maxim of equity "delay defeats equities".

39. This principle is applied in those cases where discretionary orders of the Court are claimed, such as specific performance, permanent or temporary injunction, appointment of receiver etc. These principles are also applied in the writ petitions filed Under Articles 32 and 226 of Constitution of India. In such cases, Courts can still refuse relief where the delay on the Petitioner's part has prejudiced the Respondent even though the Petitioner might have come to Court within the period prescribed by the Limitation Act.

40. Likewise, if a party having a right stands by and sees another acting in a manner inconsistent with that right and makes no objection while the act is in progress he cannot afterwards complain. This principle is based on the doctrine of acquiescence implying that in such a case party who did not make any objection acquiesced into the alleged wrongful act of the other party and, therefore, has no right to complain against that alleged wrong.

41. Thus, in those cases where period of limitation is prescribed within which the action is to be brought before the Court, if the action is not brought within that prescribed period the aggrieved party loses remedy and cannot enforce his legal right after the period of limitation is over. Likewise, in other cases even where no limitation is prescribed, but for a long period the aggrieved party does not approach the machinery provided under the law for redressal of his grievance, it can be presumed that relief can be denied on the ground of unexplained delay and laches and/or on the presumption that such person has waived his right or acquiesced into the act of other. As mentioned above, these principles as part of equity are based on principles relatable to sound public policy that if a person does not exercise his right for a long time then such a right is non-existent.

42. On the basis of aforesaid discussion, we summarise the legal position as under:

42.1 An industrial dispute has to be referred by the appropriate Government for adjudication and the workman cannot approach the Labour Court or Industrial Tribunal directly, except in those cases which are covered by Section 2A of the Act. Reference is made Under Section 10 of the Act in those cases where the appropriate Government forms an opinion that 'any industrial dispute exists or is apprehended'. The words 'industrial dispute exists' are of paramount importance unless there is an existence of an industrial dispute (or the dispute is apprehended or it is apprehended such a dispute may arise in near future), no reference is to be made. Thus, existence or apprehension of an industrial dispute is a sine qua non for making the reference. No doubt, at the time of taking a decision whether a reference is to be made or not, the appropriate Government is not to go into the merits of the dispute. Making of reference is only an administrative function. At the same time, on the basis of material on record,

satisfaction of the existence of the industrial dispute or the apprehension of an industrial dispute is necessary. Such existence/apprehension of industrial dispute, thus, becomes a condition precedent, though it will be only subjective satisfaction based on material on record. Since, we are not concerned with the satisfaction dealing with cases where there is apprehended industrial dispute, discussion that follows would confine to existence of an industrial dispute.

42.2 Dispute or difference arises when one party make a demand and other party rejects the same. It is held by this Court in number of cases that before raising the industrial dispute making of demand is a necessary pre-condition. In such a scenario, if the services of a workman are terminated and he does not make the demand and/or raise the issue alleging wrongful termination immediately thereafter or within reasonable time and raises the same after considerable lapse of period, whether it can be said that industrial dispute still exist.

42.3 Since there is no period of limitation, it gives right to the workman to raise the dispute even belatedly. However, if the dispute is raised after a long period, it has to be seen as to whether such a dispute still exists? Thus, notwithstanding the fact that law of limitation does not apply, it is to be shown by the workman that there is a dispute in praesenti. For this purpose, he has to demonstrate that even if considerable period has lapsed and there are laches and delays, such delay has not resulted into making the industrial dispute seized to exist. Therefore, if the workman is able to give satisfactory explanation for these laches and delays and demonstrate that the circumstances discloses that issue is still alive, delay would not come in his way because of the reason that law of limitation has no application. On the other hand, if because of such delay dispute no longer remains alive and is to be treated as "dead", then it would be non-existent dispute which cannot be referred.

42.4 Take, for example, a case where the workman issues notice after his termination, questioning the termination and demanding reinstatement. He is able to show that there were discussions from time to time and the parties were trying to sort out the matter amicably. Or he is able to show that there were assurances by the Management to the effect that he would be taken back in service and because of these reasons, he did not immediately raise the dispute by approaching the labour authorities seeking reference or did not invoke the remedy Under Section 2A of the Act. In such a scenario, it can be treated that the dispute was live and existing as the workman never abandoned his right. However, in this very example, even if the notice of demand was sent but it did not evoke any positive response or there was specific rejection by the Management of his demand contained in the notice and thereafter he sleeps over the matter for number of years, it can be treated that he accepted the factum of his termination and rejection thereof by the Management and acquiesced into the said rejection.

42.5 Take another example. A workman approaches the Civil Court by filing a

suit against his termination which was pending for number of years and was ultimately dismissed on the ground that Civil Court did not have jurisdiction to enforce the contract of personal service and does not grant any reinstatement. At that stage, when the suit is dismissed or he withdraws that suit and then involves the machinery under the Act, it can lead to the conclusion that dispute is still alive as the workman had not accepted the termination but was agitating the same; albeit in a wrong forum.

42.6 In contrast, in those cases where there was no agitation by the workman against his termination and the dispute is raised belatedly and the delay or laches remain unexplained, it would be presumed that he had waived his right or acquiesced into the act of termination and, therefore, at the time when the dispute is raised it had become stale and was not an 'existing dispute'. In such circumstances, the appropriate Government can refuse to make reference. In the alternative, the Labour Court/Industrial Court can also hold that there is no "industrial dispute" within the meaning of Section 2(k) of the Act and, therefore, no relief can be granted.

43. We may hasten to clarify that in those cases where the Court finds that dispute still existed, though raised belatedly, it is always permissible for the Court to take the aspect of delay into consideration and mould the relief. In such cases, it is still open for the Court to either grant reinstatement without back wages or lesser back wages or grant compensation instead of reinstatement. We are of the opinion that the law on this issue has to be applied in the aforesaid perspective in such matters.

44. To summarise, although there is no limitation prescribed under the Act for making a reference Under Section 10(1) of the Act, yet it is for the 'appropriate Government' to consider whether it is expedient or not to make the reference. The words 'at any time' used in Section 10(1) do not admit of any limitation in making an order of reference and laws of limitation are not applicable to proceedings under the Act. However, the policy of industrial adjudication is that very stale claims should not be generally encouraged or allowed inasmuch as unless there is satisfactory explanation for delay as, apart from the obvious risk to industrial peace from the entertainment of claims after long lapse of time, it is necessary also to take into account the unsettling effect which it is likely to have on the employers' financial arrangement and to avoid dislocation of an industry."

9. The learned counsel for the respondent has placed reliance upon *Shahaji v. Executive Engineer, P W D*; [2005 LawSuit (SC) 473], *Ajaib Singh v. Sirhind Co-op MKG - CUM - Processing Service Society Ltd.*; [1999 LawSuit (SC) 433], *Raghubir Singh v. General Manager, Haryana Roadways. Hissar*; [2014 LawSuit (SC) 650] and *M/s. Atlas Cycle (Haryana) Ltd. v. Kitab Singh*; [AIR 2013 SC 1172] to buttress the submission that in the event of belated dispute, the relief can be moulded. He has also relied upon *Ajaib Singh v. Sirhind Co-op MKG - CUM - Processing Service Society Ltd.* [1999 LawSuit (SC) 433] to buttress the submission that in absence of plea of limitation or delay with the judicial forum

under the labour laws, it cannot be entertained for the first time in the writ petition.

10. The finding of facts holding breach of section 25G of the I. D. Act also cannot be faulted with since the same rested on the relevant material wherefrom it was clearly established that persons juniors to the petitioner were retained while he was retrenched.

11. No exception can be taken to the legal position that if the dispute was alive even if belatedly raised on the date of reference, the relief can suitably be moulded by denying certain benefits to the workman like the back-wages if the workman is otherwise entitled to succeed in the reference. As is evident in observations from paragraphs 42.1 to 42.6, the emphasis in Prabhakar (supra) is on the live existence of industrial dispute in praesenti and limitation would not apply moment the dispute is shown to be live and the relief as indicated above can be moulded as observed in para 43 of Prabhakar (supra). This Court is not impressed with the submission that in absence of plea of delay before the judicial forum under the labour laws, it cannot be raised for the first time before this Court in view of the observations in para 42.6 of Prabhakar (supra) where it is pointed out that even the reference can be declined by the appropriate Government if it finds that the dispute is not the existing dispute and in the alternative, the judicial forum under the labour laws can hold that there is no industrial dispute.

12. The Labour Court seems to be under misconception of law that the employer was obliged to maintain the seniority list of daily wages. It was observed in Surendranagar District Panchayat v. Dahyabhai Amarsinh; [2005 (8) SCC 750] that in absence of regular employment of the workman, the employer was not expected to maintain seniority list of employees engaged on daily wages and in absence of any proof regarding the existence of the seniority list and his so-called seniority, no relief can be given to the workman for non-compliance with the provisions of the Act. In order to entitle the Court to draw the adverse inference unfavorable to a party, the Court must be satisfied regarding existence of the seniority list.

13. Learned counsel for the respondent also placed reliance upon M/s. Atlas Cycle (supra) to point out that jurisdiction of this Court under Article 226 is limited to the extent pointed out in the said decision. There can be no dispute on the proposition of law propounded in the decision. On facts, as indicated above, the case for interference is made out.

14. It is settled legal position that one who asserts must prove. To this principle, in the opinion of this Court, Gaurishankar v. State of Rajasthan; [(2015) 12 SCC 754] is no exception. The facts of that case would show that part of the material was produced by the employer and other part was withheld. It was in such contextual facts that the burden was thrown upon the employer to produce the record.

15. It can thus be seen that industrial dispute was belatedly raised without explanation and there was no evidence with the Labour Court to rest the finding on; that the persons named in the list by the workman were juniors to the respondent-workman and that they were retained in the service. Pertinently, the list did not comprehend the name of any employee appointed post the date of termination of the petitioner i.e. 29.12.2002. Thus, even the breach of section 25H which recognizes the preferential rights of the retrenched employee to be offered work was also not established. Impugned judgment and award therefore cannot be sustained. The same is required to be quashed and set aside.

Special Civil Application No.7871 of 2012

16. The finding as to breach of Section 25G cannot be sustained as it suffers from non-application of mind inasmuch as the workman failed to establish the specific date of his appointment in the year 1994 as claimed and therefore, it was not proved that the two persons named by him in the seniority list appointed on 01.10.1994 and 18.08.1994 were retained in service despite being his juniors. The impugned judgment and award therefore is not sustainable.

Special Civil Application No.13501 of 2012

17. The finding by the Labour Court recording the breach of section 25H cannot be faulted with as such finding was rested on uncontroverted material that the persons named by the workman viz. Devshankar Bhatt, Arvind Pranayshankar Dhandhaliya, Usman Adamji Parmar and Madhubhai Hathibhai Gohil were the appointees post the retrenchment of the workman and in absence the offer of the work to the workman as contemplated under the said provisions, the provision stood violated. Adequacy of the material with the Labour Court to rest such findings, cannot be gone into in a writ petition under Article 227 of the Constitution of India. In other words, the fact as to whether the dispute was belated or not rested entirely on the date of appointment of the named persons, in breach of section 25H. For the purpose of section 25H, it would be sufficient for the workman to prove that he was not offered the work as contemplated therein and to non-suit him on the ground of belated dispute, the burden would be upon the employer to establish the date of disputed appointments allegedly made in breach of section 25H.

18. This Court for the foregoing reasons finds no case to interference in the impugned judgment and award being Reference LCB No.101 of 2010 rendered by the Labour Court, Bhavnagar. Accordingly, the petition must fail and is dismissed. Special Civil Application No.2685 of 2012

19. The finding by the Labour Court recording the breach of section 25H cannot be faulted with as such finding was rested on uncontroverted material that the persons named by the workman viz. Pravinbhai Polabhai, Harshadhbhai Chimanbhai and Dhanjibhai Ramjibhai etc. were the appointees post the retrenchment of the workman and in absence the offer of the work to the workman as contemplated under the said provisions, the provision stood

violated. Adequacy of the material with the Labour Court to rest such findings, cannot be gone into in a writ petition under Article 227 of the Constitution of India. In other words, the fact as to whether the dispute was belated or not rested entirely on the date of appointment of the named persons in breach of section 25H.

20. Moreover, considering the date of termination i.e. 1999 and date of reference i.e. 2003, in the opinion of this Court, there is no inordinate delay in raising an industrial dispute inasmuch as, even the law of limitation, applies wherever applicable, allows some grace period and therefore, considering the date of termination in reference, a period of about three or four years consumed by workman for raising the industrial dispute would not suffer from delay, laches and acquiescence.

21. The benefits accruing to the workman pursuant to the judgment and award rendered by the Labour Court shall be made available to the workman latest within twelve weeks from today, failing which, the monetary benefits shall carry interest at the rate of 6% per annum from the date of default. Special Civil Application No.13501 of 2012 and Special Civil Application No.2685 of 2012 are dismissed. Special Civil Application No.7871 of 2012 and Special Civil

Application No.10075 of 2012 are allowed. Direct service to respondent is permitted.