

(2010) 08 GUJ CK 0049

In the Gujarat High Court

Case No : Special Civil Application No. 9115 of 2001

Surendranagar District Panchayat and Another

APPELLANT

Vs

Ravjibhai Oghadbhai and Others

RESPONDENT

Date of Decision : 12-08-2010

Acts Referred:

Citation : (2010) 08 GUJ CK 0049

Hon'ble Judges : K. S. Jhaveri, J

Bench : Single Bench

Advocate : Sejal K. Mandavia, for Petitioner 1-2, for the Appellant; D.T. Shah, for Respondent 1-4, for the Respondent

Final Decision : Allowed

Judgement

K.S. Jhaveri, J.—The challenge in this petition is against the judgment and award dated 19th December 2000 passed by Labour Court, Surendranagar in Reference (LCS) No. 199 of 1993 whereby the Labour Court directed the petitioners to reinstate the respondents in service with 20% back wages.

2. According to the respondents, they were serving under the present petitioner since about 15 years in Sayla Division and their services were terminated on 9th August 1989 without giving notice or notice pay or retrenchment compensation. They therefore raised a dispute which was referred to Labour Court which resulted in the aforesaid judgment and award.

3. Heard the learned Advocates for the respective parties and perused the relevant documents on record. As a result of this exercise it is found that the Labour Court has discussed in detail that the respondents were working with the petitioner continuously and that there is clear breach of provisions of the Act. There is a clear finding that the juniors of the respondent were retained in service. Learned Advocate for the petitioners is not able to point out anything from the record to show that the order of reinstatement is perverse in any manner whatsoever.

4. However, there was no plea nor evidence or proof to show that from the alleged discontinuation of his service till the date of award, the respondent was not in gainful employment. Therefore, I am of the view that there was no justification for grant of back wages, especially when the workman has not worked on the post during the interregnum period.

5. In the premises aforesaid the impugned judgment and award is quashed and set aside qua back wages. The rest of the award is confirmed. Rule is made absolute to the aforesaid extent with no order as to costs.