

(2011) 02 GUJ CK 0099

In the Gujarat High Court

Case No : Special Civil Application No. 16791 of 2010

Sureshbhai Govindbhai Khokhari

APPELLANT

Vs

President/Chief Officer

RESPONDENT

Date of Decision : 07-02-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2011) 02 GUJ CK 0099

Hon'ble Judges : S.R. Brahmbhatt, J

Bench : Single Bench

Advocate : H.M. Prachchhak, for the Appellant; Murali N. Devnani, for the Respondent

Final Decision : Allowed

Judgement

S.R. Brahmbhatt, J.—Rule. Mr. Devnani, learned advocate waives service of notice of Rule. Rule is fixed forthwith at the request of learned advocates for the parties.

2. The Petitioner-second party workman in Reference (LCJ) No. 145 of 2000 has approached this Court under Articles 226 and 227 of the Constitution of India challenging the order and award passed by the Presiding Officer, Labour Court, Junagadh, camp at Porbandar, in so far as it did not order reinstatement and in lieu thereof granted lump sum amount that too without taking into consideration an appropriate factors for arriving at appropriate lump sum payment.

3. This Court (Coram: K.A. Puj, J.) on 30/12/2010 after hearing learned advocate for the Petitioner passed the following order:

Notice for final disposal returnable on 18.01.2011

4. The facts in brief deserve to be set out as under.

5. The Petitioner was constrained to raise industrial dispute as despite his long service from 1/6/1996 and prior to his earlier services rendered with the

Respondent, his services were terminated with effect from 15/5/2000 without following the mandatory provisions of law namely Industrial Disputes Act, 1947. The said dispute was referred to the Competent Court, wherein, it was marked as Reference (LCJ) No. 145 of 2000, which came to be partly allowed, as stated hereinabove, vide order dated 10/11/2010. Having been aggrieved and dissatisfied with said order, present petition is preferred, which has now been confined only to the quantum of compensation awarded in lieu of reinstatement and any other claim.

6. Shri Prachchhak, learned advocate appearing for the Petitioner contended that Rs. 13,000/- with cost of reference of Rs. 1,000/- is too meager amount to be awarded keeping in mind the actual services rendered by the Petitioner before his termination is effected. He submitted that in a given case, Supreme Court has awarded Rs. 40,000/- even if the workman had not completed more than two to three years of service. However, he submitted that the appropriate enhancement of the compensation be ordered by the Court.

7. Shri Devnani, learned advocate appearing for the Respondent relied upon unreported decision of this Court in case of Bhurabhai Vejabhai Agath v. President/Chief Officer dated 23.12.2010 and contended that in such a case, the compensation is awarded keeping in mind all factors and this Court therefore, is of the view that Rs. 13,000/- as compensation is too meager then the Court may enhance the same but not more than Rs. 40,000/- in any case.

8. This Court has heard learned advocates for the parties and perused the order of this Court relied upon by Shri Devnani in support of his submission. The fact remains to be noted that the workman had in fact put in more than 4 years service with Respondent and his services came to be terminated unceremoniously without following due process of law. However, in the submission of learned advocate for the Petitioner, the workman had in fact earlier also rendered services, which otherwise could be considered to have been rendered from 1981, instead of 1996. In view of the submission made by advocate for respective parties, this Court is of the view that amount of Rs. 13,000/- is in fact an amount, which cannot said to be an amount adequate enough to meet with the ends of justice. The amount of compensation, is therefore, required to be enhanced accordingly. In my view, instead of Rs. 13,000/- if the workman is ordered to be paid lump sum amount of Rs. 40,000/-, then, the ends of justice would be met appropriately. The award impugned is therefore modified and now as per the modified award, the workman is entitled to receive Rs. 40,000/- towards all his claims raised. The amount of Rs. 40,000/- plus Rs. 1000/- towards cost, which has been awarded by the Reference Court, be paid within four weeks from the date of receipt of writ of this Court. In case if the said amount is not paid within four weeks from the date of receipt of writ, then, the amount thereafter be paid with interest at the rate of 18% p.a. and it would be open to the workman to move this Court for appropriate relief for compliance with this order. Petition is allowed to the aforesaid extent. Rule made

absolute. No costs.