IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 2010 of 2023

With
R/SPECIAL CIVIL APPLICATION NO. 24210 of 2022

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK

==========

Approved for Reporting	Yes	No

==========

UDABHAI SURTHABHAI PATELIYA
Versus
DEPUTY EXECUTIVE ENGINEER

==========

Appearance:
MR DIPAK R DAVE(1232) for the Petitioner(s) No. 1
MR MRUNAL DHOLARIA, ASST. GOVERNMENT PLEADER for the Respondent(s) No. 1

==========

CORAM:**HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**

Date : 20/02/2026

ORAL JUDGMENT

1. Rule returnable forthwith. Present petitions are filed by the employer as well as the employee under Articles 14, 21, 226 and 227 of the Constitution of India read with the provisions of the Industrial Disputes Act, 1947 against the impugned Award dated 05.01.2022 passed by the Labour Court, Godhra in Reference (T)No. 146 of 2013 with below mentioned relief/ in SCA/2010/2023:-

> *"(A) A writ of certiorari and/or a writ in the nature of certiorari and / or any other appropriate writ, order of direction be issued to quash and set aside impugned award dated 05.01.2022 passed by Labour Court, Godhra, in Reference (T) No.146 of 2013 qua not*

allowing the Reference of the petitioner in full and further may be pleased to direct the respondents to grant reinstatement with continuity in service and bcakwages;

(B) Pending the admission, hearing and final disposal of this petition, this Hon'ble Court may be pleased to direct respondents to reinstate the petitioner in service along with continuity:

(C) Any other and further relief or reliefs to which this Hon'ble Court deemed fit, in the interest of justice, may kindly be granted."

2. The same Award has been challenged by the state in SCA/24210/2022.

3. Heard Mr. Dipak R. Dave, learned Counsel for the employee and Mr. Mrunal Dholaria, learned Assistant Government Pleader for the Employer State.

4. Mr. Dipak R. Dave, learned Counsel for the petitioner submits that in case of the similarly situated workmen, who have been terminated by the respondent employer, serving in the same irrigation department, this Court vide order dated 14.2.2020/20.1.2020 allowed Special Civil Application No. 22362 of 2019 and allied petitions and granted benefits to the concerned workmen. Mr. Dave, learned Counsel for the petitioner has submitted that though the Labour Court has rightly observed that the respondent has not produced any documents and considering the Law laid down by the Hon'ble Supreme court and in case of similar matters granted reinstatement without backwages. It is submitted that though continuity is not mentioned the same has to be considered as implied as per the settled law. It is submitted that in the similar cases of very

department at very canal division in SCA/2205/2023, this court has while modifying award of lumpsum compensation granted relief of considering the service of the employee as continuous until he reached age of superannuation. In the present case the labour court has rightly passed the order of reinstatement however the labour court ought to have granted back wages.

5. Mr. Dave, learned Counsel for the petitioner, in support of his submissions, relied upon and referred to the decisions of the coordinate bench of this Court in Special Civil Application No.22362 of 2019 and allied petitions, Special Civil Application No. 4168 of 2022 with Special Civil Application No.4198 of 2022 and the order passed by the Hon'ble Division Bench of this Court in Letters Patent Appeal No.389 of 2024 and urges that the impugned award passed by the Labour Court be modified in line of the observations made in the said decisions.

6. Mr. Dave, learned Counsel for the petitioner has submitted that the order passed by the learned Single Judge in favour of the concerned workman is further carried in Appeal by the State before the Division Bench by way of preferring Letters Patent Appeal No. 389 of 2024 and the Hon’ble Division Bench vide order dated 7.8.2024 confirmed the said order and rejected the Letters Patent Appeal No. 389 of 2024 filed by the State and therefore, similar order may be passed in present petition also. Mr. Dave has also relied upon the decision in SCA/2205/2023 vide oral order dated 30.08.2024 as confirmed in LPA/855/2025 by order dated 07.08.2025.

7. *Per contra,* Mr. Mrunal Dholaria, learned Assistant Government Pleader for the respondent has strongly opposed and objected present petition and also contended that the petition filed by state be allowed. *It is* submitted that the petitioner workman has not proved that he has worked in the said Canal and there was no documentary evidence produced by the petitioner and therefore, Labour Court ought not to have passed order of reinstatement. It is urged that the Award passed by Labour court is contrary to the documents on record and therefore the same may be set aside. Learned AGP has referred to and rely upon grounds mentioned in memo of petition filed by state and urged to allow the petition of state and to dismiss the petition of employee. The Learned AGP is not in a position to dispute that judgment rendered in SCA/2205/2023 as confirmed in LPA/855/2025 is applicable to the facts of present case.

8. I have considered the material and relevant documents placed on record. I have also gone through the record of the petition as well as the impugned award passed by the Labour Court and the relevant papers appended to the petition.

9. It appears that the issue involved in present petition has already been decided by two different coordinate benches of this Court wherein services of similarly situated workmen, who were working in the same irrigation department came to be terminated and the workmen have challenged the said order of termination before the Labour Court and Labour Court has awarded lumpsum compensation by rejecting the order of

reinstatement. The said order was challenged by the concerned workmen before this Court by way of preferring Special Civil Application No.22362 of 2019 and allied petition, whereby after hearing the parties, the coordinate bench of this Court has passed an order dated 14.2.2020/20.1.2020 and allowed the group of petitions keeping in mind the observations made in paragraph Nos. 9, 10 and 11.

10. The said petition came to be allowed with the direction to the respondent to consider the case of all the concerned workmen for retirement benefits, who have attained the age of superannuation instead of granting reinstatement, till the date of superannuation with continuity of service. In case of employees who had not reached superannuation age have been directed to be reinstated in service with continuity of service.

11. It is not in dispute that in case of Jawanbhai Malabhai Pagi, SCA/2205/2023 which is of bhadar canal sub division, lunawada i.e Very respondent, in case of similarly situated employee, this court has modified award of compensation by allowing the petition of an employee and directed to treat his service as continuous till date of retirement and to pay all retirement benefits.

12. Similarly situated workman has filed present petition and therefore, similar order is required to be passed in the facts of the present petition also.

13. At this stage, it appropriate to take into account the similar observation made by the co-ordinate bench of this Court in Special Civil Application No. 4168 of 2022 and Special Civil Application No.

4189 of 2022 vide judgment dated 24.6.2022 which reads as under:-

> *"10. Accordingly, as held by this Court in the judgement of Chhatrasing Marutising Bariya vs. Dy. Executive Engineer & Ors., the petitions are allowed. Under the circumstances, the impugned award passed by the Labour Court is erroneous to the extent of granting compensation. The respondents are directed to reinstate the workmen in service with continuity of service. However, it is clarified that they will not be entitled to any backwages as they have given up their claims. After their reinstatement, it will be open for the petitioners – workmen to file a representation claiming the benefits of Government Resolution dated 17.10.1988. The order reinstating the petitioner workmen shall be passed within a period of three months from the date of receipt of this order. The amount of compensation, if already paid to the workmen, the same shall be adjusted while fixing their pay.*
>
> *11. As far as petitioner of Special Civil Application No. 4189 of 2022 is concerned, he has attained the age of superannuation. The Court accedes to the request of quashing and setting aside the order of lump-sum compensation and instead grant the reinstatement till the date of superannuation with continuity of service. The backwages has been forgone by the employee with the grant of continuity to him who has attained the age of superannuation. He shall be paid consequentially the retirement benefits on the strength of modified award in not later than twelve weeks' time from the date of receipt of copy of this order."*

14. It is also required to be noted herein that the Hon'ble Division Bench in Letters Patent Appeal No. 389 of 2024 has confirmed the order passed by the learned Single Judge and observed that:-

> *"10. On a perusal of the award passed by the Labour Court, we find that the Labour Court had directed the employer to produce muster-roll to satisfy as to whether from which year, the workman has completed 240 days. Despite the aforesaid direction, the employer of the respondent-workman did not produce the same. It is asserted by the workman that he was engaged from 1994 to 1997 however, his service was terminated from 03.10.1997. The learned Single Judge after placing reliance on the judgment of the Supreme Court in the case of R.M. Yellatti (supra), has held that the termination was not in violation of provisions of Section 25F of the Act, no muster roll was produced by the employer, though directed by the Labour Court.*
>
> *11. The learned Single Judge in the impugned judgment and order, more particularly in paragraph No.6 has held thus :-*

> *"6. Apart from setting out the number of days that the respondent had worked in the years 1994 to 1997 as referred to herein above, perusal of the award of the Labour Court would indicate that in one of the references which was heard together with the present reference, at mark 20/1, the employer was called upon to produce the muster roll to satisfy the Labour Court as to whether in each year of service, the workman had completed 240 days. At mark 17/1, the deposition of the employer's witness Ravindran Karunakaran Nair was also considered. The Labour Court considering the decision of the Supreme Court in case of R.M.Yellatti v. Assi. Executive Engineer reported in 2006 SSC (L&S) 1 held that adverse inference has to be drawn in the event of employer having failed to produce oral as well as documentary evidence on record. Even otherwise, this Court had an occasion to deal with the awards of a similar nature where the Labour Court fell short of awarding reinstatement and awarded compensation. The petitions were filed by the State challenging the award of reinstatement with 10% back-wages and those of some workmen who are already awarded compensation. In the oral order dated 20.01.2020, the Court confirmed the orders of reinstatement, however, set aside the order of granting 10% back-wages. In other words, the award of reinstatement without back- wages was the award of the Labour Court which was in terms modified."*

> *12. We are in complete agreement with the findings recorded by the learned Single Judge. We have also noticed that the Department, in which the respondent-workman was working was never closed down and there were other employees, who were working along with the present workman. It is also not in dispute that no seniority list has been produced by the appellant before the Labour Court, and hence, the Labour Court is justified in holding the termination in violation of Section 25G and H of the I.D. Act.*"

15. Hon'ble Division Bench of this Court has rejected the Letters Patent Appeal filed by the State and confirmed the order passed by the learned Single Judge and observed paragraph No. 13 as under:-

> "1*3. Thus we do not find any reason for interfering the judgment and order passed by the learned Single Judge. Hence, the present appeal fails. The same is hereby rejected accordingly.*"

16. Therefore, the orders passed by the two different

coordinate benches of this Court are now confirmed by the Hon'ble Division Bench and therefore, this Court has no any other alternate but to pass the similar order in view of the order passed by the two different coordinate bench of this Court and confirmed by Division Bench of this Court.

17. It is required to be noted herein that once the coordinate bench of this Court has considered the submissions and passed the order which is upheld by the Hon'ble Division Bench, for considering the judicial discipline and propriety, this Court has no any alternate but to pass the similar order as observed by the Hon'ble Apex Court, time and again that in similar identical facts, if one coordinate bench has taken the view then the another coordinate bench has to follow the same.

18. It is also appropriate to take into account that in the another group of Letters Patent Appeal being Letters Patent Appeal No. 622 of 2024 the court has confirmed the order of learned Single Judge in the similarly situated workman on the same line, where the Labour Court has awarded lumpsum compensation in lieu of reinstatement and that was interfered by coordinate bench of this Court, which is upheld by the Hon'ble Division Bench of this Court in Letters Patent Appeal No. 622 of 2024. Relevant paragraph No. 3 read as under:-

> *"3. The Division Bench vide order dated 19.03.2024 passed in Letters Patent Appeal No.190 of 2024, has held in paragraphs, 4, 5, 6, 7, 8, 9 and 10 as under:*
>
> > *"4. It is further noted by the learned Single Judge that the*

only documents, that were produced by the employer, were for the period from January 2007 to December 2009. The contention on behalf of the State was that on account of delay of 2 years in raising the dispute, when the work at the Canal had been outsourced, reinstatement was not possible, that too after a lapse of 20 years from the date of termination of the services of the petitioner, as admitted to the petitioner.

5. These findings returned by the learned Single Judge are sought to be assailed by Ms. Hetal Patel, learned Assistant Government Pleader, appearing for the State-appellant, with the assertions in the written statement placed before us. It is sought to be submitted that the petitioner was engaged in a project which has come to an end and he was never engaged by the Bhadar Canal Sub-Division.

6. This statement made in the written statement is found to be wrong for the simple reason that on the asking of the Labour Court, the employer had produced the attendance records of only last three years, i.e. for the period from January 2007 to December 2009. It was not the case of the appellant- employer that the petitioner was never engaged in the department. The complete record establishing the period of working of the petitioner even in the Project, wherein he was allegedly engaged by the respondent as per the contentions in the written statement, had not been produced by the employer.

7. The best evidence was in the custody of the appellant employer and for not producing the entire record including the attendance-sheet to establish the actual period of working of the petitioner, adverse inference was required to be drawn by the Labour Court.

8. It is an admitted fact of the matter that apart from the attendance-sheet of three years, no oral or documentary evidence was placed by the appellant department before the Labour Court and the best evidence was withheld in spite of the specific directions issued by the Labour Court.

9. We are, therefore, of the view that the findings returned by the learned Single Judge that the compensation in lieu of reinstatement will be detrimental to the petitioner, who has worked over a period of 20 years and who has been illegally restrained from working at the instance of the employer. As the respondent department/appellant herein has failed to establish the period of working of the petitioner, who has admittedly been engaged in the department since 1983 till July 2011, as categorically stated by the workman, we are of the considered view that for violation of the Section 25-F, G and H of the Industrial Disputes Act, the reinstatement ought to have been followed, as directed by the learned Single Judge.

> *10. For the aforesaid, no case is made out for interference. The appeal is, therefore, DISMISSED, affirming the order passed by the learned Single Judge. Pending Civil Application also stands DISPOSED OF."*

19. In the present case Labour court has rightly considered evidence on record and relying upon judgment of Hon'ble supreme court in case of Director, Fisheries Terminal Division, AIR 2010 SC 1236, held that the employee has rendered continuous service as per section 25B of ID Act. The Labour court, Godhra in reference (T) no.148 of 2013 has passed identically worded award and as only compensation was granted, the same was modified in SCA/2205/2023 and confirmed in LPA/855/2025. In the present case thus looking to 26 years of service from 1985 to 2011, it cannot be said that the Labour court has committed any error in granting reinstatement. Since in the similar cases reinstatement with continuity of service however without backwages have been granted, the same order is required to be passed.

20. In view of the above observations and keeping in mind the observations made by the two different Coordinate Benches of this Court in Special Civil Application Nos. 22362 of 2019 and 4168 of 2022 with 4189 of 2022 and confirmed by the Hon'ble Division Bench of this Court in Letters Patent Appeal No. 389 of 2024, the petition of employee is hereby allowed. The impugned award dated 13.05.2022 passed by the Labour Court, Bharuch in Reference (T) No. 146 of 2013 is hereby confirmed so far as reinstatement is concerned and the respondent is hereby directed to reinstate the employee petitioner in SCA/2010/2023 with continuity of service however without back wages in the same line as directed by this court and division bench in the

matters referred herein above. Accordingly, the petition of state is required to be rejected.

21. Thus the Award of reinstatement is confirmed with the further direction to reinstate the concerned employee with continuity of service. The employee shall be reinstated as directed above within period of three months from the date of receipt of copy of writ of this order.

22. Accordingly, both the petitions stand disposed of. Rule is made absolute to the above extent.

Direct service is permitted.

(HEMANT M. PRACHCHHAK,J)

Dolly

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: DOLLYBEN CHETANBHAI VADUKAR(HC01392), PRIVATE SECRETARY, at High Court of Gujarat on 24/02/2026 15:19:44