IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 15626 of 2025

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MAHESHBHAI MOHANBHAI BHOYE
Versus
DEPUTY CONSERVATOR OF FOREST & ANR.

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Appearance:
MR TEJAS D SHUKLA(5312) for the Petitioner(s) No. 1
MS ROSHNI PATEL AGP for the Respondent(s) No. 1,2

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

Date : 12/01/2026

ORAL ORDER

1. Present petition is filed by the petitioner-workman under Articles 226 and 227 of the Constitution of India read with the provisions of the Industrial Disputes Act, 1947 seeking the following reliefs:

> *"(A) Your Lordship may be pleased to issue a Writ of Certiorari and/or a Mandamus and/or any other order quashing and setting aside the Award dated 15-2-2025 passed by the Ld. Labour Court, Valsad in Reference (L.C.V) No. 15/2016.*
>
> *(B) Your Lordship may also be pleased to direct the respondents to reinstate the petitioner with continuity, with all consequential benefits and full back wages.*
>
> *(C) Any other relief may be granted."*

2. Brief facts giving rise to the present petition are that, the petitioner-workman was working as a Labourer and his duty was to remove the lumps of wood and remove the cubic meter, w.e.f. 03-04-1994 with the Respondent No. 2 in the Forest Department

of the Government and his last drawn salary was Rs. 2418/- per month. That, the respondent had not issued any show cause notice or chargesheet against the petitioner-workman. That, on 31-3-2005, the RFO Shri Kamakhaliya had orally terminated the services of the petitioner-workman. Therefore, the petitioner-workman filed a complaint before the Assistant Labour Commissioner for conciliation, however, the dispute was not resolved and the conciliation proceedings failed. Thereafter, the dispute was referred to Labour Court, Valsad, which was registered as Reference (LCV) No. 15 of 2016 whereby, the Labour Court vide award dated 15-02-2025 rejected the reference on the ground of delay.

3. Being aggrieved and dissatisfied with the impugned award dated 15.02.2025, the petitioner-workman has preferred the present petition.

4. Heard Mr. Tejas D Shukla, learned counsel for the petitioner and Ms. Roshni Patel, learned AGP for the respondents. Perused the material on record.

5. Mr. Shukla, learned counsel for the petitioner has submitted that the impugned judgment and award passed by the Labour Court is illegal, unjust, arbitrary, erroneous and contrary to the facts and material on record and the provisions of the Act and therefore, is required to be quashed and set aside. He has submitted that the Labour Court has committed an error in law in rejecting the reference on the ground of delay, having held that the termination of the petitioner violated section 25F of the Industrial Disputes Act, 1947. He has submitted that the

provision of the ID Act does not prescribe any specific period of limitation for making a reference under Section 10 of the ID Act and, thus, mere delay or lapse of time, in absence of any express statutory bar, cannot defeat the statutory right of the workman. He has submitted that the petitioner-workman was an employee and had worked continuously and he was illegally terminated from the services.

5.1 Mr. Shukla, learned counsel for the petitioner has submitted that the petition deserves to be allowed and the impugned award passed by the Labour Court deserves to be quashed and set aside.

6. As against that, learned AGP Ms. Roshni Patel, appearing for the respondent, has opposed the present petition and submitted that there is no any infirmity or any illegality in the impugned judgment and award passed by the Labour Court and therefore, no interference is required to be called for in the present petition. She has submitted that the impugned judgment and award passed by the Labour Court is in consonance with the settled principles of law and is passed after following due procedure and therefore, the same is required to be confirmed and the present petition is required to be dismissed and no interference is required to be called for while exercising jurisdiction under Article 227 of the Constitution of India.

7. Having considered the submissions made by learned counsel appearing for the respective parties and perused the impugned award passed by the Labour Court, it appears that the workman was illegally terminated from the services and,

therefore, he has raised the dispute before the Assistant Labour Commissioner and, then the same was referred to the Labour Court for adjudication. It emerges from the record that the Labour Court rejected the reference on the ground that the workman has not approached in time. On perusal of the impugned award, it appears that the Labour Court has not committed any error while passing the impugned award. That after the order of removal was passed in 2005, the reasons best known to the petitioner, the reference was made in the year 2016 i.e. after almost 11 years and even during the pendency of the reference, the petitioner has not taken any proper care to produce relevant material on record before the Labour Court. The Labour Court has recorded the finding and reasoning in para 22 and 24 for explanation that why the Labour Court was taking such harsh decision. From 2016 to 2025, neither the petitioner has produced any relevant record before the Labour Court nor taken care to produce documentary evidence. The reason shown by the petitioner before the Labour Court is contrary to the facts of the record and in fact there was no any adjournment or report filed by the petitioner before the Labour Court during that period. The Labour Court has observed that from 2005, almost 11 years have passed and the workman remained silent and has not taken any care. Under such circumstances, it appears that after relying upon the decisions of this Court in the case of (1) **Bhavnagar Municipal Corporation Vs. Arvindbhai Ravjibhai Naiya reported in 2024 LawSuit(Guj) 1142,** (2) **Dhulabhai Somabhai Damor Vs. Deputy Executive Engineer reported in 2024 LawSuit(Guj) 2368** and (3) **Kamdar Hit Rakshak Union through President Vs. Deputy Director of Traffic Manager reported in 2024 LawSuit(Guj) 2842** and

considering the relevant facts of the case, the Labour Court has rightly rejected the application. In fact, the Hon'ble Supreme Court in case of **Prabhakar Vs. Joint Director Sericulture Department and another** reported in **(2015) 15 SCC 1**, has discussed with regard to the existence of the industrial dispute for this long period and this long period without any explanation cannot be considered by the Court. In the present case, Mr.Shukla, learned counsel has submitted that the petitioner-workman was approaching the authorities to explain the inordinate delay of almost eleven years. In the said decision, the Hon'ble Supreme Court has considered the fact that even otherside has taken defence with regard to the delay in approaching the Labour Court, the Labour Court ought to have considered the aspect of delay though the delay was not properly explained under the provisions the Limitation Act is not applicable.

8. The relevant observations of the decision of the Hon'ble Supreme Court in the case of **Prabhakar** (supra) reads as under:-

> "*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. 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. 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 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 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, 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.

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.

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.

On the application of the aforesaid principle to the facts of the present case, we are of the view that High Court correctly decided the issue holding that the reference at such a belated stage i.e. after fourteen years of termination without any justifiable explanation for delay, the appropriate Government had not jurisdiction or power to make reference of a non-existing dispute."

9. On perusal of the material on record, it appears that the respondents have not taken contention with regard to the delay before the Labour Court, when it came to the knowledge of the Labour Court, the Labour Court has rightly observed the part of delay then it cannot be said that it is considered without there being any material and hence, the petition is required to be dismissed on account of gross delay in preferring the reference before the Labour Court. Once the Labour Court has passed the order on the ground of delay, after considering the decision of the Hon'ble Supreme Court, now the petitioner cannot take contention that the respondents have not objected the reference on the ground of delay as they have not taken any contention in their written statement. It is the contention on the part of the workman that the Labour Court has committed an error while passing the impugned award on the ground of delay and the

learned Assistant Government Pleader has raised the aspect of delay before this Court. It cannot be said that the respondents have no right to raise the contention on the aspect of delay before this Court as they have not taken any ground of delay in their written statement. It is legal right of the State Authority to raise such contention, therefore, it cannot be said that the Labour Court has committed an error in passing the impugned award.

10. Considering the decision of the Hon'ble Supreme Court in the case of **Prabhakar** (supra) and the decisions of this Court in the aforesaid cases, no case is made out to entertain the present petition and the same being meritless deserves to be dismissed.

11. In view of the aforesaid facts and circumstances of the case and the decisions, the petition stands dismissed. The impugned award passed by the Labour Court is hereby confirmed. There shall be no order as to costs.

(HEMANT M. PRACHCHHAK,J)

ANUSRI

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ANUSRI VASU(HC02352), ENGLISH STENO GRADE-II\, at High Court of Gujarat on 13/01/2026 16:22:02