

In the Labour Court before the Presiding Officer

Mr. L.M. Rathod, Judge

At Bhavnagar



Review Application No. 01/2021

Second Party:-

Saurashtra Shramik Sangh,

1st floor, Omik Complex,

Pirchhalla Road, Bhavnagar.

V/S

First Party:-

Secretary/ Chairman Shri,

Maharaj Saheb Krushnakumarsinhji APMC Yard,

Rajkot Road Bhavnagar

Representative for the Applicant	:Mr. V.J. Pamnani
Ld. Counsel for the Opponent	:Mr. K.M. Gandhi

1. Brief facts of the applicant:-

1.1. Mr. Pamnani by filing the present application u/s. 31 of the Industrial

Disputes (Gujarat) Rules, 1966 has submitted that the Reference(Demand) No. 11/2018 was awarded by this court on 13.07.2021 wherein certain typographical mistakes has detailed in para-2 have been occurred. He has further submitted that in fact the date of initial joining of the applicant was 01.10.2008 which has been stated accordingly in his statement of claim and oral evidence and also in the schedule reproduced in para-1 of the award but thereafter by mistake the date of initial joining is stated to be 02.11.2009, which needs to be rectified.

1.2. He has further submitted that in the title clause name of the second party is stated to be “Omdevsinh Viramdevsinh Gohel” whereas actual name of the second party is “Omdevsinh Viramdevsinh Gohil” which is stated in his statement of claim as well as in affidavit of oral evidence and in the schedule reproduced in para-1. Therefore, prays to rectify the same as without being rectified these mistakes they may cause him unnecessary hardships. These mistakes are typographical mistakes and this court is vested with powers to rectify the same.

1.3. He has further submitted that the copy of award has been received by him on 14.07.2021 and the present application has been filed on 28.07.2021 which is within the period of limitation prescribed therefore. Therefore, inter alia prays in para-4 to allow the reliefs as prayed for in terms of date of joining and name of the second party.

1.4. The second party has submitted this application on affidavit alongwith copy of notification of award published by the Dy. Labour Officer, Bhavnagar

on 14.07.2021 in Ref. (Demand) No. 11/2018.

1.5. Mr. Pamnani has advanced oral argument in pursuant to notice issued to the opponent Mr. K.M. Gandhi appeared for the Maharaja Saheb Krishnakumarsinhji A.P.M.C. Yard and made endorsement of assent if the proposed mistakes are rectified.

2. Therefore, in view of the arguments advanced and having considered the averments and rival contention it is expedient to ascertain asto whether this court has been vested with powers to rectify the mistakes if any ?. Therefore, Rule-31 of the I.D. (Gujarat) Rules, 1966 is required to be taken into account. Which is reproduced hereunder;

નિયમ-૩૧ ભૂલ સુધારવા બાબતે:-

“ કોઈ બોર્ડ, કોર્ટ, મજૂર કોર્ટ, ટ્રીબ્યુનલ, અથવા લવાઈ કોઈપણ પોતાની મેળે અથવા પક્ષકારો પૈકી કોઈ પક્ષકારની અરજી ઉપર કોઈ કાર્યવાહી, રિપોર્ટ, ચુકાદો અથવા નિર્ણયમાંથી આકસ્મિક ભૂલ કે ચૂંકમાંથી ઉપસ્થિત થતી કોઈ કારકૂની ભૂલ કે ગલતી સુધારી શકશે”.

3. Therefore, on perusal of above reproduced Rule-31 which confers powers upon the board, court, labour court or tribunal to rectify the clerical mistakes crept in any proceeding, report, award or judgment. Therefore, in view of the above provision the labour court has power to rectify the clerical mistakes. Therefore, in the matter on hand the award came to be passed in

Ref. (Demand) No. 11/2018 on 02.07.2021 and copy thereof is produced alongwith the review application and on perusal thereof mistakes as to date of joining as per details of para-2 of the application appear to have occurred. The date of joining of the second party as per schedule reproduced, statement of claim and affidavit of oral examination is 01.10.2008 whereas it is stated to be 02.11.2009 in different paragraphs of the award as per para-2 of the application. The mistakes as to date of joining appear to have been occurred thrice in paras-3.1, 3.6, 8, 10.1(a), twice in 10.1(k), 10.3(c), 10.4, 10.1(a), 10.4(c), 10.4(f) and 10.4(h). Further the name of the second party is written as Omdevsinh Viramdevsinh Gohel instead of Omdevsinh Viramdevsinh Gohil and according to applicant it is stated in his statement of claim and oral evidence and it is also correctly stated in the scheduled reproduced in the award. On perusal of the file of the Ref. (Demand) No. 11/2018 the terms of reference refers name of the second party as “Omdevsinh Viramdevsinh Gohil” further the statement of claim and affidavit of oral examination also refer the same. Therefore, there appears clerical mistake in the surname of the second party which is “Gohil” instead of “Gohel” which is being clerical mistake crept in inadvertently can be rectified in view of the provisions of Rule-31 of the Rules, 1966. Therefore, for the reasons assigned hereinabove the present application deserves to be allowed. Therefore, in the interest of justice order is hereunder passed;

Final Order

1. The present Review Application to rectify the

clerical mistakes is hereby allowed.

2. In the Original Award in Ref. (Demand) No. 11 of 2018 the date of initial joining of the second party is to be read as 01.10.2008 in place of 02.11.2009 thrice in paras-3.1, 3.6, 8, 10.1(a), twice in 10.1(k), 10.3(c), 10.4, 10.1(a), 10.4(c), 10.4(f) and 10.4(h) and para-2 of operative part of final order and surname of the second party as “Gohil” in place of “Gohel” in title clause, page no. 1. Whereas no any other change except the abovesaid clerical change in initial date of joining and surname is made in the original award.

3. No order asto Costs.

Place: Bhavnagar.
Date : 07.09.2021

(Lalitkumar Meghajibhai Rathod)
Presiding Officer, Court No. 1
(Code No. GJ00844)