

RECEIVED ON :	29-08-2025
REGISTERED ON:	30-08-2025
DECIDED ON :	06-05-2026
DURATION :	Y. M. D. 00 08 07

**IN THE INDUSTRIAL TRIBUNAL AHMEDABAD,
SITTING AT KALOL & MAHESANA.**

MISCAPP-IT/09/2023
Exh.10

APPLICANT :-

Co-ordination Secretary Shree, Sh.M.H. Bhakariya
Gujarat Vidhut Karamchari Utkersh Mandal,
Type-D 6/2, G.S.E.C.L. Colony, Thermal Power Station,
Gandhinagar

VERSUS

OPPONENTS/ RESPONDENTS :-

1. Managing Director Shree,
Gujarat Urja Vikas Nigam Ltd.
Head Office, Vadodara
2. Managing Director Shree,
Gujarat State Electricity Company Ltd.
Head Office Vadodara
3. Managing Director Shree
Gujarat Energy Transmission Company Ltd.,
Head Office Vadodara

Appearance:-

Applicant's side: Adv. Sh. Amar N. Barot

Opponents'side: Adv. Sh. A.D. Trivedi

Application under Rule 26(A) of Industrial Dispute (Gujarat) Rules**-: JUDGMENT :-**

1. Read the applicant, perused the record and heard the Ld. advocate for the applicant as well as Ld. advocate for the opponent no. 1 to 3. The applicant has preferred the present application for restoration of Reference (IT) no. 107/2023, which was dismissed ex-parte on 09.07.2025.
2. The notice was duly served to the opponents and from the side of the opponents, Ld. advocate has given his presence. Ld. advocate for the opponents has submitted individual replies to this present application vide Exh. 6 to 8.
3. Ld. advocate for the applicant in his arguments submitted that the dispute was raised in 2023 and discussion with regard to dispute remained pending in the union and for that reason the applicant was not present inadvertently. Further the seniority list was also required to be prepared in the union meetings and submissions were not made in the reference. Further the dismissal order was passed in the absence of the applicant and the applicant has no knowledge of the dismissal order and a copy of the order was received online on 20.08.2025 and thereafter the present application is preferred on 29.08.2025. Therefore, the present restoration application is preferred within 30 days from the date of knowledge of the ex-parte award and therefore, requested to allow this application.

Per-contra Ld. advocate for the opponents in his arguments submitted that order passed in Reference(IT) no. 107/2023 is very

clear and delivered on 09.07.2025 but the applicant has not stated the date on which a copy of the order was received. Further delay days are not mentioned by the applicant and the applicant has not stated anything whether the application is filed within limitation or not. Therefore, requested to reject this application. Further the applicant was required to collect all the documents and information before filing the reference case and 20 opportunities were taken by the applicant and reasons shown as to administrative ground and negligence of union are not legal reasons for filing this application. Further the applicant intentionally was absent and continuously remained absent in the reference case. Further inability is not an excuse in law and the applicant has not come to the court with clean hands. Further no stay is demanded by the applicant and condonation of delay application is also not preferred by the applicant. Therefore, this application is not preferred within the prescribed period of limitation and for that requested to reject this application.

4. In view of the above referred contentions the point in issue is that for the restoration of the reference, whether there is sufficient cause to set aside the ex-parte order or not? The provisions for setting aside the ex-parte award or order are prescribed under Rule 26-A of Industrial Dispute Rules, 1966 and according to this;

(1) On an application made within thirty days from the date of knowledge of an ex-parte order, award or report by the party concerned, the Board, Court, Labour Court or Tribunal or Arbitrator may, for sufficient cause, set aside, after notice to the opposite party, such order, award or report as the case

may be;

(2) The Board, Court, Labour Court or Tribunal or Arbitrator may, on sufficient cause being shown, extend the period referred to in sub-rule (1);

(3) An application under sub-rule (1) shall be supported by an affidavit."

5. As per the record, the reference was dismissed ex-parte on 09.07.2025 and no contention is raised by the respondents that in spite of publication of the award, the applicant has not preferred the present application within time. Further it is not on record on which date the award was published. As per rule 26-A, the applicant has to file this application within 30 days from the date of knowledge of ex-parte order/ award. Therefore, the date of award is not an important factor but date of knowledge of award is the deciding factor.

6. In this case it is an admitted fact that on the date of passing the ex-parte award the applicant was not present, therefore, the date of communication of award is an important factor. As per the Hon'ble Apex Court as well as Hon'ble High Courts have, by catena of judgments, laid down that while determining such kind of issue, the Court should take liberal view. Further it is well settled that the procedural laws are enacted to do substantial justice between the parties on merits and it would be in the interest of justice if any dispute between the parties may be decided on merits after providing opportunities instead of entering into technicalities. Labour Laws are designed to facilitate justice and not a penal

enactment. In this case the reasons for absence as shown by the applicant is that the discussion with regard to dispute remained pending in the union and for that reason the applicant was not present inadvertently. Further according to pursis submitted at Exh.9 by the trade union representative, the online copy of ex- parte award was received on 20.08.2025 and this application is preferred on 29.08.2025 i.e. within 30 days from the date of knowledge of award. Therefore, the contentions raised by the applicant appear to be bonafide and no negligence of the applicant comes on record and therefore, considering the principles of natural justice, this Court is of the view that the ends of justice would be met by allowing the application filed by the applicant. Hence, in the interest of justice, I pass the following order.

- : **ORDER** : -

- Present application for restoration of reference is hereby allowed.
- The applicant is directed to deposit Rs.500/- (Rs. Five hundred only) towards the cost of this application with the Taluka Legal Service Authority, Kalol. Upon depositing the cost, the Reference (IT) 107/2023 is ordered to be restored for further hearing.
- Parties to the dispute are directed to remain present in the Tribunal, when the matter is restored.

The order passed and pronounced today on the 6th. day of May 2026.

Dated :06.05.2026

Place : Kalol

(Rajender Singh)

Presiding Officer, Industrial Tribunal
Ahmedabad, sitting at Kalol & Mahesana.
Judge Code: GJ 01085