

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 1229 of 2025**

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VAJESINH CHHATRASINH CHAUHAN
Versus
DEPUTY EXECUTIVE ENGINEER

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Appearance:

MR DIPAK R DAVE(1232) for the Petitioner(s) No. 1
MR VAIBHAVKUMAR I BHOI(12030) for the Petitioner(s) No. 1
MR PRADIP J PATEL(5896) for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE

Date : 23/04/2026
ORAL ORDER

1. By the present writ petition, the petitioner impugns the award dated 30.03.2024 passed by the Labour Court, Godhra in Reference (T) No.151 of 2011, whereby the learned Labour Court has partly allowed the reference and granted a lump sum compensation of Rs.70,000/- to the petitioner herein along with costs of Rs.5,000/-.

2. Learned counsel Mr.Dipak Dave appearing for the petitioner submits that the Labour Court has come to a categorical finding that there is violation of Sections 25F, 25G and 25H of the Industrial Disputes Act, 1947 ("ID Act" for short) in the present case. He submits that in this background, the learned Labour Court ought to have granted reinstatement with back-wages instead of lump sum compensation. He submits that the petitioner has specifically stated that he had worked for 7 years with the respondent as a Rojandar labourer and that the said statement has not been disproved by the respondent through credible evidence. He submits that in view thereof, the learned Labour Court has drawn adverse inference

against the respondent and held that the petitioner had rendered continuous service for 7 years with the respondent. He submits that the learned Labour Court has also held that as per Section 25B of the ID Act, the petitioner was working continuously with the respondent.

3. Learned counsel for the petitioner submits that the lump sum compensation granted by the learned Labour Court is based on erroneous facts. He submits that the age of the petitioner on the date of passing of the award was 56 years and therefore, he had four more years of service left and that he had not crossed the age of superannuation. He submits that in this background, the petitioner ought to have been reinstated in service with full back-wages and consequential benefits. In support of his contentions, he has relied upon the order dated 24.06.2022 in Special Civil Application No.4168 of 2022 and other connected matters passed by the Coordinate Bench of this Court, wherein it has been held that the compensation in lieu of reinstatement will be detrimental to the petitioner, who has worked for a long period of time. He has also relied upon the judgment of the Division Bench in Letters Patent Appeal No.306 of 2008 dated 03.05.2018 and the order dated 19.03.2024 in Letters Patent Appeal No.190 of 2024 laying down a similar proposition. He, therefore, submits that the impugned award granting lump sum compensation be quashed and modified and the petitioner be granted reinstatement with full back-wages and all consequential benefits.

4. Per contra, learned counsel Mr. Pradip Patel appearing on behalf of the respondent submits that in the present case the petitioner has not produced any document to show that he was working with the respondent. He submits that the petitioner has nowhere stated his date of joining of service with the respondent. He submits that the petitioner has only stated that he was working for 7 years before his alleged termination. He submits that even the date of termination is also not stated and the claim vaguely mentions date of oral termination as April, 1997. He submits that vague averments are made in the claim petition and that the learned Labour Court has partly allowed the reference only on the basis of adverse inference drawn against the respondent herein. He submits that the findings arrived at by the learned Labour Court are not based on any evidence on record, but only on adverse inference. He submits that even in his cross-examination, the petitioner has stated that he was going for a work as and when called for by the respondent. It is also admitted by the petitioner that he has not given any information as to from what date to what date he has worked with the respondent and for how many days in each month for the said period. He submits that in the cross-examination, the petitioner has further stated that he was going for work of the respondent as and when the main contractor of the village used to take him for work.

5. Learned counsel for the respondent submits that since the petitioner was never appointed as a daily wage labourer with the

respondent, no records were maintained and therefore, nothing could be produced on record. He submits that even the adverse inference drawn against the respondent cannot be sustained in law since the workman had not proved his case at all. He, therefore, submits that the petitioner is not at all entitled for any reinstatement with continuity and full back-wages as he was never employed by the respondent. He, therefore, submits that the present petition be dismissed. In support of his contentions, he has relied upon the order dated 29.09.2025 in Special Civil Application No.488 of 2014 and other connected matters passed by the Coordinate Bench of this Court, wherein it has been held that the burden of proof first lies on the workman to demonstrate that he had worked continuously for 240 days in the preceding year and it was incumbent upon the workman to adduce cogent evidence in this regard apart from his own deposition to substantiate his claim of employment with the employer.

6. Heard learned counsel for the parties. Perused the documents on record and considered the submissions.

7. The present case reveals very peculiar facts. Annexure-B to the petition is the copy of the claim petition filed by the petitioner. The said claim petition is in a standard typed format, wherein blanks have been filled up in handwriting with respect to the number of years of service, daily wages and date of termination. All the averments in the claim petition are totally general in nature and

vague. The claim petition does not state the date of joining of service by the petitioner. Even in his deposition, the petitioner has admitted that he does not remember his date of joining nor he remembers his date of termination, yet it has been claimed that the petitioner was working with the respondent since 7 years. In the reference proceedings, both the parties have led only oral evidence. The petitioner in his cross-examination has made a categorical statement that it is true that he was going for work with the respondent as and when the main contractor of the villager asked him to come and work. He has also admitted that he used to do labour work wherever the main contractor used to take him. He has admitted that he has not given any date of joining of service with the respondent. He has also admitted that from what date till which date he has worked with the respondent and for how many days in each month he has worked. He has admitted that he has not produced any evidence in this regard before the Labour Court.

8. A perusal of the oral evidence of the witness for the respondent reveals that the petitioner was coming for work as a daily labourer as and when he was called for. He was not appointed as a Rojanddar daily wager by the department. It is also stated that since he was not appointed by the respondent, no records were maintained in respect of the petitioner.

9. The learned Labour Court by the impugned award has held that the petitioner was working as a daily wage labourer with the

respondent since last 7 years from the date of his oral termination. The said finding has been recorded on the basis of adverse inference drawn on the ground that the respondent has not produced any evidence on record to controvert the statement made by the petitioner in his claim petition. Further, on the basis of the provisions of Section 25B of the ID Act, the learned Labour Court has assumed that the petitioner has continuously worked for the said period of 7 years despite no clearcut statement made by the petitioner that he has worked for 240 days and more in the preceding year as well as in the alleged last 7 years in service. The total onus has been placed on the respondent-employer and it has been held that since the respondent has not produced any muster roll or attendance sheet in view of the provisions of Section 25B of the ID Act, the service of the petitioner to be treated continuous.

10. Further, the learned Labour Court has come to the conclusion that since the petitioner has crossed the age of superannuation, he is not entitled for any reinstatement in service and back-wages and accordingly, has granted a lump sum compensation of Rs.70,000/- in lieu of reinstatement with continuity in service and full back-wages. It is also pertinent to mention here that the respondent has not challenged the impugned order till date.

11. In the case of **Range Forest Officer vs. S.T. Hadimani**, reported in (2002) 3 SCC 25, the Apex Court has held thus:-

“3. For the view we are taking, it is not necessary to go into the question as to whether the appellant is an "industry" or not, though

reliance is placed on the decision of this Court in State of Gujarat v. Pratam Singh Narsinh Parmar, JT (2001) 3 SC 326. In our opinion the Tribunal was not right in placing the onus on the Management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside. However, Mr. Hegde appearing for the Department states that the State is really interested in getting the law settled and the respondent will be given an employment on compassionate grounds on the same terms as he was allegedly engaged prior to his termination, within two months from today.”

12. In the case of **Manager, Reserve Bank of India, Bangalore vs. S. Mani and Others**, reported in (2005) 5 SCC 100, the Apex Court has held thus:-

“18. The concerned workmen in their evidence did not specifically state that they had worked for 240 days. They merely contended in their affidavit that they are reiterating their stand in the claim petition.

19. Pleadings are no substitute for proof. No workman, thus, took an oath to state that they had worked for 240 days. No document in support of the said plea was produced. It is, therefore not correct to contend that the plea raised by the Respondents herein that they have worked continuously for 240 days was deemed to have been admitted by applying the doctrine of non-traverse. If any event the contention of the Respondents having been denied and disputed, it was obligatory on the part of the Respondents to add new evidence. The contents raised in the letters of the Union dated 30th May, 1988 and 11th April, 1990 containing statements to the effect that the workmen had been working continuously for 240 days might not have been replied to, but the same is of no effect as by reason thereof, the allegations made therein cannot be said to have been proved particularly in view of the fact that the contents thereof were not proved by any witness. Only by reason of non-response to such letters, the contents thereof would not stand admitted. The Evidence

Act does not say so.”

13. In the case of **R.M. Yellatti vs. Asstt. Executive Engineer**, reported in (2006) 1 SCC 106, the Apex Court has held thus:-

“17. Analyzing the above decisions of this court, it is clear that the provisions of the Evidence Act in terms do not apply to the proceedings under section 10 of the Industrial Disputes Act. However, applying general principles and on reading the aforesaid judgments, we find that this court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily waged earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus in most cases, the workman (claimant) can only call upon the employer to produce before the court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self-serving statements made by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non-production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the tribunal to draw an adverse inference against the management. Lastly, the above judgments lay down the basic principle, namely, that the High Court under Article 226 of the Constitution will not interfere with the concurrent findings of fact recorded by the labour court unless they are perverse. This exercise will depend upon facts of each case.”

14. Despite the settled legal position, the learned Labour Court has accepted the oral statement made by the petitioner without any cogent evidence on record being produced in respect of joining of service, date of oral termination and number of days worked in each of the year of 7 years of service as claimed. The learned Labour Court has awarded lump sum compensation in lieu of reinstatement.

15. For the aforesaid reasons and observations, no interference is called for. The present petition is devoid of merits and is accordingly, dismissed. No order as to costs.

ABHISHEK/70

Sd/-
(ANIRUDDHA P. MAYEE, J.)