

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 1429 of 2024****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK Sd/-**

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Approved for Reporting	Yes	No
		No
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VIDYAMANDIR TRUST
Versus
RAFIQAHMED M. SINDHI

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Appearance:

MR CHINTAN N DESAI(9940) for the Petitioner(s) No. 1
ANURADHA G RATHOD(7717) for the Respondent(s) No. 1
MR GK RATHOD(2386) for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**Date : 23/02/2026****ORAL JUDGMENT**

1. **Rule** returnable forthwith. Ms. Anuradha G. Rathod, learned counsel waives service of notice of rule on behalf of respondent.

2. Present petition is filed by the petitioner under Articles 14, 16, 226 and 227 of the Constitution of India r/w the provisions of Industrial Disputes Act challenging the impugned award dated 31.8.2023 in Reference (LCP) No. 50 of 2020 passed by the Labour Court, Palanpur, whereby the Labour Court has

partly allowed the reference and granted reinstatement with 25% backwages.

3. Facts of the case are that the respondent - workman was appointed as 'Data Entry Operator' vide appointment letter dated 21.07.2008 with the petitioner. On 3.12.2019 the respondent voluntarily tendered his resignation from service and requested for his immediate relieving from service. On 16.12.2019 the petitioner provided relieving cum experience letter to the respondent. The amount of leave encashment was also paid to the respondent by the petitioner vide Cheque No.429070 dated 22.1.2020. Thereafter, on 28.1.2020 the respondent workman made a communication to the petitioner stating that his resignation was forcefully taken and demanded for reinstatement with all consequential benefits.

3.1 Thereafter, the respondent raised an industrial dispute before the Labour Court being Reference (LCP) No.50 of 2020 and the Labour Court, vide order dated 31.8.2023 partly allowed the said reference and awarded aforementioned relief.

3.2 Being aggrieved by the award passed by the Labour Court, the petitioner has preferred present petition.

4. Heard learned counsel appearing for the respective parties.

5. Mr. Chintan Desai, learned counsel for the petitioner has submitted the same facts which are narrated in the memo of petition and has submitted that the award passed by the

Labour Court is illegal, unjust and without appreciation of the facts of the case and evidence place on record. He has submitted that the Labour Court has committed an error in reinstating the respondent with 25% backwages despite the respondent failing to prove the violation of the provisions of the Industrial Tribunal Act, 1947. He has submitted that the Labour Court exceeded its jurisdiction by recording the evidence which is contrary to the evidence on record as per the settled proposition of law. Learned counsel for the petitioner urges before the Court that present petition may be allowed.

6. On the other hand, Ms. Rathod, learned counsel for the respondent has objected the petition and submitted that the Labour Court has not committed any error in passing the impugned judgment. She has submitted that infact the impugned award passed by the Labour Court is in consonance with the provisions of law and hence prayed for rejection of the petition. She has submitted that after taking into account all the relevant aspects and after going through the relevant material placed on record the Labour Court has passed the order and therefore, this Court may not interfere with the order passed by the Labour Court.

7. Considering the submissions canvassed by learned counsel appearing for the respective parties and the impugned judgment and award passed by the Labour Court, it appears that the Labour Court has rightly appreciated the evidence while coming to the conclusion and without there being any rebuttal, on the other hand, the Labour Court has awarded

aforementioned relief. In view of the decision of the Hon'ble Supreme Court in the case of **Maharashtra State Cooperative Marketing Federation Limited Versus Suresh S/o Dadarao Gadge** reported in **(2015) 4 SCC 542** and the oral order dated 18.04.2024 passed by the Division Bench of this Court in **Letters Patent Appeal No. 908 of 2023 and allied appeals** more particularly para - 10 and the order dated 18.04.2024 passed by the Division Bench of this Court in **Letters Patent Appeal No.1091 of 2023 and allied appeals** more particularly paras - 5 and 6, this Court is of the opinion that interest of justice would be subserved, if lump sum compensation is awarded in favour of the workman in lieu of reinstatement and all other consequential benefits.

8. The relevant para - 10 of the oral order dated 18.04.2024 passed by the Division Bench of this Court in Letters Patent Appeal No. 908 of 2023 and allied appeals reads thus:-

"10. Having come to the conclusion that the lump sum compensation would be appropriate remedy for the families of the deceased workmen, the other aspects which comes for consideration is quantum of lump sum compensation. Though learned advocate Mr. Bhatt has contended that there was delay in preferring the complaint and the subsequent reference, it can be observed from the pleadings that the averments with regard to delay and laches in preferring the reference were not made before the Labour Court as well as the learned Single Judge. Therefore, the argument of learned advocate Mr. Bhatt with regard to delay and laches in preferring reference cannot be countenanced and what needs to be seen is that almost all the workmen have put in 16-20 years of service for the respondent and their services were terminated without following due procedure of law. Therefore, the families of the deceased workmen needs to be compensated proportionally as to the number of years of service put in by them. However, in order to balance the equation, we have considered to give effect of delay in preferring the reference while enhancing the

amount of compensation. Thus, while calculating the number of years of services, we proposed to deduct the number of years service for which there is delay in preferring reference. After deduction of such number of service, we propose to give compensation in the following tabular form:

<i>Sr.No.</i>	<i>Total no. of years for lump sum compensation</i>	<i>Amount of lump sum compensation</i>
<i>1</i>	<i>5 to 10 years</i>	<i>Rs.3.00 lacs</i>
<i>2</i>	<i>10-15 years</i>	<i>Rs.5.00 lacs</i>
<i>3</i>	<i>15-20 years</i>	<i>Rs.7.5 lacs</i>

9. The relevant paras 5 and 6 of the oral order dated 18.04.2024 passed by the Division Bench of this Court in Letters Patent Appeal No. 1091 of 2023 and allied appeals reads thus:-

“5. Therefore, looking to the gap which intervened between the date of termination and the date of granting reinstatement, the approach of the learned Single Judge granting lump sum compensation cannot be faulted with.
6. Looking to the various aspects and factors which are considered above, like the nature of employment, time gap intervened, length of service, the compensation awarded to the tune could not be said to be unreasonable. Therefore, Letters Patent Appeals preferred by the Municipality on the question of amount of compensation as well as appeals preferred by the workmen seeking reinstatement are liable to be dismissed. However, in one of the matters being Letters Patent Appeal No. 701 of 2023 in Special Civil Application No. 18334 of 2021 in the case of workman being Koli Vairaginiben Ramkumar, we observe that the compensation given by the learned Single Judge is to the tune of Rs.6,25,000/- for 11 years of service. It can be observed from the order passed by the learned Single Judge that such amount is proportionally different from the other set of amounts which are given as compensation. However, for the identical years of work i.e. 11 years of service, the other workmen are granted an amount of Rs.3,25,000/- as lump sum compensation. Thus, we are inclined to modify the amount of lump sum compensation in Letters Patent Appeal No. 701 of 2023 to the tune of Rs.3,25,000/- from Rs.6,25,000/-. Hence, Letters Patent Appeal No. 701 of 2023 is partly allowed to the aforesaid extent, whereas, all the other Letters Patent

Appeals stand dismissed as no ground is made out to interfere with the order of the learned Single Judge."

10. Now, considering the materials placed on record and the peculiar facts of this case as well the tenure of service of the petitioner, this Court is of the opinion that instead of granting any other relief, it would be just and proper to pay lump sum compensation of Rs.5,00,000/- to the workman, in lieu of reinstatement and all other consequential benefits.

11. In view of the above, present petition is partly allowed. The impugned award passed by the Labour Court is hereby quashed and set aside and the award is modified accordingly. An amount of Rs.5,00,000/- as lump sum compensation in lieu of reinstatement and all other consequential benefits shall be paid to the workman by the employer after proper verification of the identity and bank details through RTGS within a period of eight weeks from the date of receipt of the writ of this order. Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

SURESH SOLANKI

Sd/-
(HEMANT M. PRACHCHAK,J)