

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 4138 of 2020****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**

=====		
Approved for Reporting	Yes	No
=====		

BABURAO KOLI

Versus

MANAGER SHRI, J.P. EXTRUSIONTECH LTD.

=====

Appearance:

MR YOGEN N PANDYA(5766) for the Petitioner(s) No. 1

KRUTARTH K DESAI(9662) for the Respondent(s) No. 1

=====

**CORAM: HONOURABLE MR. JUSTICE HEMANT M.
PRACHCHHAK****Date : 25/02/2026****JUDGMENT**

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

“(A) Your Lordships may be pleased to issue a writ of mandamus or an appropriate writ, order or direction in the nature of mandamus by quashing and setting aside the impugned award passed by the learned Presiding Officer, Judge (SD), Labour Court No.1, Bharuch, in Reference (LCB) No.81 of 2018 dated 18.04.2019, as it being ex-facie illegal, improper, unjust, unfair and without following the principles of natural justice, in the interest of justice and thereby directed the respondent to reinstate the petitioner in service with full back wages, in the interest of justice;

(B) During pendency of admission, hearing and final disposal of this petition, Your Lordships may be pleased to stay the implementation, operation and execution of the impugned award passed by the learned Presiding Officer, Judge (SD), Labour Court No.1, Bharuch, in Reference (LCB) No.81 of 2018 dated 18.04.2019, as it being ex-facie illegal, improper, unjust, unfair and without following the principles of natural justice, in the interest of justice.

(C) Any other and further relief as may be deemed fit just and proper may kindly be granted in favour of the Petitioner, in the interest of justice."

2. Brief facts giving rise to the present petition are that, the petitioner was employed with the respondent Company as Driller since 01.02.1996 and his last drawn salary was Rs. 16,804/-. The petitioner was terminated from services by the respondent subsequent to the enquiry proceedings initiated against the petitioner. Consequently, the petitioner raised industrial dispute regarding his termination before the Assistant Labour Commissioner. That, on being satisfied regarding the existence of industrial dispute between the parties, the Assistant Labour Commissioner made a reference on 27.09.2018 under Section 10(1)(c) of the Industrial Disputes Act, 1947 for adjudication by the Labour Court. Thereafter, the petitioner filed Reference before the Labour Court seeking reinstatement to his original post with continuity of service with full backwages. That, the Presiding Officer, Judge (SD), Labour Court No.1, Bharuch in Reference (LCB) No.81 of 2018, dated 18.04.2019 has rejected the Reference filed by the petitioner.

3. Being aggrieved and dissatisfied with the impugned award dated 18.04.2019 passed by the Labour Court, the petitioner has

preferred the present petition.

4. Heard Mr. Yogen Pandya, learned counsel for the petitioner and Mr. Krutharth Desai, learned counsel for the respondent. Perused the material available on record.

5. Learned counsel Mr. Pandya 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 misinterpreted the provisions of Section 11-A of the ID Act as well as the provisions of Rules 24(a), 24(c), 24(k), 24(l), 24(m), 24(x) of the Model Standing Orders, while passing the impugned award. He has submitted that the Labour Court ought not to have appreciated the submission that the petitioner indulged in misconduct for which charge-sheet was issued to him. Over and above the grounds agitated in the memo of petition, learned counsel Mr. Pandya has urged that the impugned judgment and award passed by the Labour Court is required to be quashed and set aside and the present petition is required to be allowed.

6. As against that, learned counsel Mr. Desai, appearing for the respondent, has strongly 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. He has submitted that proper and fair chances were given to the petitioner to produce his defense during the

course of enquiry proceedings and the petitioner had actively participated in the enquiry proceedings which were conducted in accordance with the principles of natural justice. He has submitted that the petitioner was served with the second show cause notice along with the enquiry report for his reply however, the petitioner did not receive the same and adopted all ways and means to avoid the delivery of the same. He has submitted that it was not an allegation of sleeping on duty for the period of 4 days on the petitioner but the allegation was that, the petitioner was remaining absent from performing his duty while on duty and was not present at his duty place. He 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. Considering the submissions canvassed by the learned counsel appearing for the respective parties and the impugned 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. 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 where it has been held that in all the case where the termination is found illegal, the order of reinstatement cannot be passed automatically and 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 the purpose would be served if lump sum compensation to the tune of Rs.5,00,000/- is awarded.

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:

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

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, this Court is of the opinion that

instead of granting any back wages and reinstatement in service as prayed for, it would be just and proper to pay lump sum compensation of Rs.5,00,000/- as full and final settlement to the petitioner, which will serve the ends of justice.

11. With the aforesaid conclusion, the petition stands allowed in part. 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 shall be paid to the petitioner by the respondent 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.

(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 27/02/2026 15:41:16