

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/LETTERS PATENT APPEAL NO. 599 of 2018****In R/SPECIAL CIVIL APPLICATION/6649/2015**

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MANAGER / SANCHALAK / SECRETARY & ANR.

Versus

JITENDRAKUMAR MOHANLAL PARMAR & ORS.
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Appearance:

MR JV JAPPEE(358) for the Appellant(s) No. 1,2

MR ANUJ K TRIVEDI(6251) for the Respondent(s) No. 2

RULE SERVED for the Respondent(s) No. 1,3,4
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CORAM:HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA

and

HONOURABLE MR.JUSTICE J. L. ODEDRA**Date : 08/06/2026****ORAL ORDER****(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)**

1. The respondent No. 1 herein was working as a Librarian. In the year 2005, he approached the Education Service Tribunal with a complaint that he was prevented from discharging his work inasmuch as he was not been allowed into the premises to discharge his work. In these proceedings, the Tribunal after admitting the appeal granted an interim order in his favour and directed the institution to continue him in service. However, according to the respondent No. 1, despite the interim order, he was not allowed to continue. The institution however took up the contention that despite the interim order, he did not report for duty at all and ultimately the institution informed the Tribunal about this aspect and the Tribunal on 19.01.2010 infact vacated the interim relief granted in favour of the respondent No. 1.

2. The Tribunal thereafter decided the application on merits and did record a finding that the respondent No. 1 was prevented from discharging his duties from 2005 and he had secured an alternative appointment in the year 2008. The Tribunal therefore, allowed the application in part and directed that the respondent No. 1 be paid wages from the period from November, 2005 till July, 2008 commensurate to the post of Librarian in the pay scale of Rs. 8000-375-13500. The Tribunal also granted interest @ 9% on this amount and directed that the amount be paid within a period of 3 months.

3. Being aggrieved by this order, the institution approached this Court and the learned Single Judge by the impugned order confirmed the order of the Tribunal.

4. The learned Single Judge recorded a finding that the institution did not comply with the ad-interim order granted by the Tribunal during the entire period and it also did not pay the salary to the respondent No. 1 during the subsistence of the interim order.

5. The learned Single Judge took note of the fact that the institution did not approach the Tribunal from 17.12.2005 till 19.01.2010 with a request to vacate the interim relief and the institution also did not take any steps regarding this unauthorized absence of the respondent No. 1.

6. The learned Single Judge therefore came to the conclusion that the conduct of the institution indicated that it

wanted to prevent the respondent No. 1 from discharging his duties and therefore the order of the learned Single Judge was justified. The learned Single Judge accordingly proceeded to dismiss the writ petition and also granted interest @ 9% on the principal amount till 02.06.2015 taking note of the fact that the institution had only deposited the principal amount and not the interest component.

7. Being aggrieved by this order, the present appeal has been filed.

8. As noticed by the Tribunal and as affirmed by the learned Single Judge, it is clear that the institution did not permit the respondent No. 1 to join his duty and discharge his work. Both the learned Tribunal and the learned Single Judge have come to the conclusion that the institution did not choose to inform the Tribunal from 2005 till 2010 that the respondent No. 1 had failed to report for duty. It is also noticed by the learned Single Judge that no disciplinary steps have been taken for this unauthorized absence.

9. It is to be stated here that in the face of a litigation between the respondent No. 1 and the institution, if, as a matter of fact, the respondent No. 1 was not reporting for duty, the institution would surely have initiated proceedings against the respondent No. 1 after securing the permission of the Tribunal. This having not been done, it is clear that the Tribunal was justified in coming to the conclusion that the respondent No. 1 was prevented from discharging his duties as a Librarian. We are therefore of the view that the order of

the learned Tribunal cannot be found fault with and its confirmation by the learned Single Judge is also just and proper.

10. For the above reasons, the present appeal is dismissed.

(N.S.SANJAY GOWDA,J)

(J. L. ODEDRA, J)

SHRIJIT PILLAI