

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 4128 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 4142 of 2025**

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HANUMANT HOSPITAL THRO AUTHORISED PERSON KIRITBHAI
DOLATRAI PAREKH

Versus

SOLANKI HANSABEN KHIMJIBHAI

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Appearance:

CHINTAN K GANDHI(8600) for the Petitioner(s) No. 1

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CORAM: HONOURABLE MRS. JUSTICE M. K. THAKKER

Date : 02/04/2025

ORAL ORDER

1. Learned advocate Ms.Jani appearing with learned advocate Mr.Desai submits that learned labour court has committed error in holding that the respondent workman has completed 240 days in the preceding years of termination. Learned advocate Ms.Jani submits that for arriving to the said conclusion, reliance was placed on the passbook wherein, salary was credited in the account of the respondent workman. Learned advocate Ms.Jani has drawn the attention of this Court with regard to the entries of the passbook in which the entries of every month suggests that the respondent did

not work continuously for the period which is claimed. Learned advocate Ms.Jani submits that learned labour court has committed error in arriving to the conclusion that there is a breach of provision of section 25 (g). The bare statement made in the examination in chief stating the name of the person was believed by the learned labour court without referring to the cross-examination wherein, it is admitted that no evidences were adduced to show that in place of the respondent workman, other persons were engaged.

- 1.1. Learned advocate Ms.Jani has also drawn the attention of this Court with regard to the Exh.54 i.e. the pursis filed by the employer declaring that the employer is ready to permit the respondent workman to rejoin the duties. Learned advocate Ms.Jani submits that learned reference court has appointed the Commissioner who submitted the report below Exh.78 wherein, also the fact regarding the readiness to permit the respondent to join the duties were supported. However, that was discarded on the ground that the petitioner-Trust is ready to permit the respondent on rotation basis. Learned advocate Ms.Jani submits that the petitioner-Hospital is

a non profitable organization and has engaged the respondent on daily basis as an Attendant, based on as and when the need arises and according to the work the payment of the salary was made. Learned advocate Ms.Jani submits that learned reference court has committed grave error in awarding the lump sum compensation of 15% alongwith relief of reinstatement.

- 1.2. It is submitted by the learned advocate Ms.Jani that workman has also filed the petition being Special Civil Application No.15684 of 2024 claiming 100% back wages which is listed on 07.04.2025.
2. In view of the above submission, let Notice be issued making it returnable on 07.04.2025.
3. Ad-Interim relief is terms of paragraph 11 b).
4. To be heard with Special Civil Application No.15684 of 2024.

NIVYA A. NAIR

(M. K. THAKKER,J)