

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 6507 of 2026****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE DEVAN M. DESAI**

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Approved for Reporting	Yes	No
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DEEP SECURITIES SERVICES

Versus

ARVINDBHAI BHAILAL VASAVA & ANR.

Appearance:

NIRAV C BHATT(7420) for the Petitioner(s) No. 1

MR DIPAK R DAVE(1232) for the Respondent(s) No. 2

CORAM: **HONOURABLE MR. JUSTICE DEVAN M. DESAI****Date : 09/07/2026****JUDGMENT**

1. The present petition is filed under Articles 226 and 227 of the Constitution of India, 1950 by the petitioner praying for the following reliefs:

“(A) This hon’ble court may be pleased to issue a writ of certiorari or any other appropriate writ, direction or order quashing and setting aside impugned award dtd: 24-11-2016 at Annx.-“A” passed by Ld. labour court no 4, Vadodara, in reference (LCV) case no. 619 of 2004 as well as impugned orders dtd: 16-12-2022 at Annx.-“B” in recovery (C-2) application no. 164 of 2017 & 10-3-2026 at Annx.-“C” in recovery (C-1) application no. 15 of 2023, passed by Ld. labour court no. 4, Vadodara, respectively.

(B) Pending the hearing and final disposal of the petition, the Hon’ble Court may be pleased to stay

*the execution and operation of impugned award dtd: 24-11-2016 at Annx.- "A" passed in reference (LCV) case no. 619 of 2004 as well as impugned order dtd: 16-12-2022 at Annx.-"B" passed in recovery (C-2) application no. 164 of 2017 & impugned order dtd: 10-3-2026 at Annx.-"C" in recovery (C-1) application no. 15 of 2023, respectively
(C) This hon'ble court may be pleased to grant such other and further relief as necessary in the interest of justice."*

2. Rule returnable forthwith. Learned advocate Mr. S.D. Motwani for learned advocate Mr. Dipak Dave waives service of notice of Rule for and on behalf of respondent No. 2. With the consent of learned advocates for both the parties, the captioned petition is taken up for final hearing.

Heard learned advocate Mr. Nirav Bhatt for the petitioner and learned advocate Mr. S.D. Motwani for learned advocate Mr. Dipak Dave for respondent No. 2.

3. Brief facts of the case are as follows:

3.1 The workman was working as a watchman with the petitioner from 23.01.1991. The workman was illegally terminated from his services on 24.07.2004 without following the provisions contained under the Industrial Disputes Act, 1947 (hereinafter, referred to as "*the Act*"). The workman approached the learned Labour Commissioner who, upon

failure of settlement, referred the dispute to learned Labour Court for adjudication. The petitioner, though served, did not file any written statement. Respondent No. 2 appeared and filed written statement at Exhibit – 6. The learned Labour Court, vide award dated 24.11.2016, partly allowed Reference and the order of termination dated 24.07.2004 was held to be illegal and the petitioner was directed to reinstate employee with 30% back-wages.

3.2 Being aggrieved and dissatisfied with the impugned judgment and award, the petitioner is before this Court by way of the present petition.

4. Learned advocate for the petitioner submitted that as the petitioner was not having any work after 24.07.2004 and, therefore, when the Reference was made before the learned Labour Court, the petitioner could not contest the Reference due to financial constraints. It is submitted that when the orders in Recovery Applications came to be passed on 10.03.2026, the petitioner realized that the order passed in the Reference proceedings as well as the Recovery (C-2) Application and Recovery (C-1) Application need to be challenged. It is submitted

that the petitioner was working as a contractor for different companies. Respondent No. 2 – Executive Engineer was giving the work contracts year to year to different contractors and the petitioner was one of them. The work contract was given by respondent No. 2 to the present petitioner for the period between 15.07.2003 to 24.07.2004. After 24.07.2004, the work contract came to an end. Petitioner was regularly paying wages to respondent No. 1 – workman and also maintaining muster roll for all the employees. As the services of the workman were not required as the contract between the petitioner and respondent No. 2 came to an end, the workman was relieved. In the Reference Proceedings, the direction was issued against present petitioner to reinstate the workman with 30% back-wages. It is submitted that the grant of back-wages is without any evidence and it is not the case made out by employee that he has remained unemployed during the intervening period. It is submitted that the learned Labour Court has not appreciated the evidence and has gravely erred in directing the petitioner to reinstate the employee. It is submitted that the orders passed under Recovery (C-1) Application and Recovery (C-2) Application, respectively, are perverted and require to be quashed and set aside along with the order of

reinstatement with 30% back-wages. Except above, no other submissions were made by learned advocate for the petitioner.

5. *Per contra*, learned advocate for respondent No. 2 contended that the impugned judgment and award is just and reasonable and, therefore, no interference is required by this Court. Except above, no other submissions were made by learned advocate for respondent No. 2.

6. Having considered the submissions made by learned advocates for the parties and upon perusal of the papers placed on record, it appears that the workman was in the employment of the petitioner as a watchman since 23.01.1991. The petitioner was holding a contract with respondent No. 2 and the contract was for the period between 15.07.2003 to 24.07.2004. In the statement of claim, it is alleged by the workman that he has been wrongly and illegally terminated by the petitioner on 24.07.2004. He worked as a watchman from 23.01.1991 till 24.07.2004 continuously and, therefore, he has completed 240 days of service preceding 12 calendar months from the date of termination. It appears from the record that the Reference Proceedings had gone unchallenged as petitioner, though served, did not file any written statement.

However, vide Exhibit – 63, in the Reference Case No. 618 of 2004, petitioner did file an affidavit, but, thereafter, did not remain present for cross-examination and, therefore, the examination-in-chief was discarded. The award of reinstatement with 30% back-wages is passed on 24.11.2016 and the petitioner did not comply with the said award for a long period of time. The workman, in the year 2017 filed Recovery (C-2) Application which came to be allowed on 16.12.2022 by directing the petitioner to pay Rs.2,06,566/- with cost together with interest at the rate of 6% from the date of application. The said order, it appears to have remained disobeyed. Thereafter, the workman moved the learned Labour Court by way of a Recovery (C-1) Application in the year 2023 wherein, the learned Labour Court partly allowed the application and issued a Recovery Certificate for an amount of Rs.2,99,823/-. The petitioner, thereafter, woke up from the slumber and approached this Court by way of the present petition. The High Court cannot entertain any petition under Articles 226 and 227 of the Constitution of India, 1950 when there is gross delay in approaching the Court. The petitioner set tight over the order of reinstatement with 30% back-wages for 10 years and the challenge was made after the Recovery Certificate was issued

against the petitioner. The High Court, in exercising its jurisdiction under Articles 226 and 227 of the Constitution of India, 1950 cannot interfere with the award by re-appreciating and reassessing the evidence when the learned Labour Court has found on appreciation of evidence that the termination of the workman is bad and illegal. This Court, while exercising powers under Articles 226 and 227 of the Constitution of India, 1950 cannot disturb such findings which are not perverted and illegal. This Court is of the view that, in the aforesaid circumstances, the petition lacks merit and the same is hereby, dismissed. The petitioner is directed to comply with the award passed by the learned Labour Court within a period of four weeks from the date of receipt of this order.

MUSKAN

(D. M. DESAI,J)