

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 9092 of 2023**

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STATE OF GUJARAT
Versus
KANTIBHAI RAMABHAI MACHHI

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Appearance:

MS NIRALI SHARDA, AGP for the Petitioner(s) No. 1,2,3
for the Respondent(s) No. 1,2

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CORAM: HONOURABLE MRS. JUSTICE MAUNA M. BHATT

Date : 08/06/2023

ORAL ORDER

1. Heard learned Assistant Government Pleader Ms. Nirali Sarda for the petitioners. She submitted that the order dated 21.10.2022 passed in Reference (T) No. 59 of 2014 is erroneous on the following grounds:-

1.1 The respondent from the year 2008 to 2012 remained on unauthorized leave for which he has been put to notice, despite that, no cognizance has been taken by the Labour Court, Vadodara of the said documents.

1.2 The show cause notice for remaining unauthorized absent was served upon the respondent, despite that the Labour Court, Vadodara treated the respondent in continuous service.

1.3 In the cross-examination at Exh. 11 the respondent himself had stated that he joined the service in the year 1983 and termed as resigned from service in the year 2012 on

account of his unauthorized absent.

1.4 It is evident from the documents on record that the respondent had not continuously worked for more than 240 days in the last 4 years and therefore the observation that the respondent had performed his service for 240 consecutive days in a calendar year is beyond the facts.

1.5 No documents are produced by the respondent along with his statement of claim justifying his sickness for which he remained unauthorized absent for more than 4 years.

1.6 She emphasized that the list of documents produced and marked in Reference Application have not been discussed or deliberated in the judgment and award dated 21.10.2022.

2. Considering the submissions, Issue **Notice** returnable on **01.09.2023**.

3. By way of ad-interim relief, the effect and implementation of the order dated 21.10.2022 passed in Reference (T) No. 59 of 2014 shall remained stayed till then.

SHRIJIT PILLAI

(MAUNA M. BHATT,J)