

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).23800/2004

(From the judgement and order dated 22/09/2003 in LPA No.903/1998 of
the HIGH COURT OF GUJARAT AT AHMEDABAD)

CHANDWANI JHAMANDAS SOBHRAJ

Petitioner(s)

VERSUS

DIGVIJAY CEMENT CO. PVT. LTD.

Respondent(s)

(With prayer for interim relief and office report)

(FOR FINAL DISPOSAL)

Date: 12/01/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s)

Mr. D.K. Thakur,Adv.

Mr. R.K. Singh,Adv.

Mr. Ravi Shankar,Adv.

Mr. Sushil Kumar,Adv.

Mr. Debasis Misra,Adv.

For Respondent(s)

Mr. Sanjay Kapur,Adv.

Ms. Shubhra Kapur,Adv.

Mr. Rajiv Kapur, Adv.

Ms. Arti Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

The petitioner was working with the respondent Company. His services were terminated by an order dated 28.1.1983. A civil suit was filed by him questioning the validity of the said order before the Civil Judge, Senior Division, Narol. In the said suit the respondent allegedly raised an objection that the grievances of the petitioner can be determined only in terms of the provisions of the Industrial Dispute Act, 1947. It is stated that the said suit was withdrawn, and thereafter an industrial dispute was raised. By reason of an award dated 12.5.1997, the Labour Court found as of fact that the petitioner had been working in a supervisory capacity. Despite the same, the Labour Court awarded a sum of Rs.75,000/- by way of compensation. The High Court, however, set aside the said award opining that the Labour Court has no jurisdiction in respect thereof. The petitioner is thus before us.

-2-

Submission made on behalf of the petitioner is that the finding of the Labour Court, as has been accepted by the High Court, that he had been working in a supervisory capacity, was not correct. Before the

High Court, some additional ground was taken, namely, that the petitioner's salary being less than Rs.1600/- per month, he would be a workman within the meaning of Section 2(s) of the Industrial Disputes Act. The said contention was also rejected by the High Court.

This Court is bound by the aforementioned finding of fact that the petitioner was not a workman within the meaning of Section 2(s) of the Industrial Disputes Act. In that view of the matter, the Industrial Court has no jurisdiction to award any sum in his favour by way of compensation or otherwise. Therefore, that part of the award was a nullity. In view of the judgment of the High Court, we are of the opinion that no relief can be granted in favour of the petitioner. The petitioner may seek his remedy, if any, available to him in law.

The special leave petition is dismissed with the aforementioned observations.

(A.S. BISHT)

(PUSHAP LATA

BHARDWAJ)

COURT MASTER

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