

HIGH COURT OF GUJARAT

GUJARAT ENVIRONMENT SERVICES SOCIETY (GESS)

Versus

CHHOTUBHAI ZINABHAI BHOI & 1

Date of Decision: 07 June 2016

Citation: 2016 LawSuit(Guj) 813

Hon'ble Judges: [K M Thaker](#)

Case Type: Special Civil Application

Case No: 27318 of 2007, 549 of 2008, 550 of 2008, 551 of 2008

Subject: Labour and Industrial

Acts Referred:

[Industrial Disputes Act, 1947 Sec 10](#)

Final Decision: Petition disposed

Advocates: [Nanavati Associates](#), [Rakesh R Patel](#), [T R Mishra](#), [U T Mishra](#)

K.M.Thaker, J.

[1] Heard Mr. Desai, learned advocate for the petitioner and Mr. U.T. Mishra, learned advocate for the respondent.

[2] In This Group Of Petitions, Similar Issue Is involved.

[3] The Learned Advocates For The Petitioner And the respondent have raised similar and common contentions in support of their respective cases.

Therefore, these four petitions are taken together and decided by this common judgment.

[4] At The Outset, It Is Relevant And Necessary to mention that in view of the submission and statement made by Mr. U.T. Mishra, learned advocate for the respondent workman, it is not necessary to enter into and decide on merits the contentions raised by the petitioner in support of the petitions and against the orders impugned in the petitions.

[5] Actually, in view of the submission and statement made by Mr. U.T. Mishra, learned advocate for the respondent workman with regard to the subsequent developments before the learned Tribunal, the petitions are rendered infructuous and the cause to prosecute the petitions does not survive.

[6] So As To Appreciate The Said Aspect, It Is relevant to take note of the relevant factual backdrop.

[7] It Is Given Out By Learned Advocate For The petitioner that at certain point of time, the workmen of the Institute of Rural Management Anand (IRMA) had raised demand for revision of wages and dispute by way of Reference (IT) No.752 of 2008 was pending before the learned Industrial Tribunal at Nadiad. It is further claimed that during the pendency of the said reference, 4 workmen filed complaints in the said pending reference. Learned advocate for the petitioner claimed that the petitioner herein, who was the opponent in the complaints, filed an application in the said complaints and raised preliminary objection against maintainability of the complaints.

[8] It appears that the learned Tribunal considered the said application whereby the present petitioner raised preliminary objection against maintainability of the complaints and after hearing the parties rejected the application filed by the petitioner.

[9] Aggrieved by the said order rejecting the application raising preliminary objection, the petitioner contractor, who claimed to be employer of the said 4 complainants, has taken out captioned petitions.

[10] In this background, the submission and statement made by Mr. U.T. Mishra, learned advocate for the respondent workman, is relevant.

[11] When The Petitions Are Called Out And Taken up for hearing, the learned advocate for the respondent in the said complaints submitted that the complainants have already withdrawn 3 complaints out of 4 complaints, i.e. Complaint Nos.4/1999, 884/1998 and 885/1998. According to his submission, since the complaints are withdrawn, the grievance against the order passed in respect of interlocutory application raising preliminary objection, now does not survive and consequently, the cause to prosecute the petitions also does not survive. The petitions in which the orders passed in respect of the applications filed in 3 complaints are challenged, are the Special Civil Application Nos.27318/2007, 549/2008 and 550/2008.

[12] In View Of The Fact, As Declared By Learned advocate for the respondents complainants, that the complainants in the said 2 complaint viz. Complaint Nos.4/1999, 884/1998 and 885/1998 have raised substantive dispute by way of reference under section 10 of the Industrial Disputes Act, 1947 they have withdrawn

the complaints and the said 3 complaints have been finally disposed of. Thus, challenge against interim / interlocutory order passed in said 3 complaints do not survive.

[13] In This View Of The Matter And In Light Of said submission and statement by Mr. Mishra, learned advocate, Special Civil Application Nos.27318/2007, 549/2008 and 550/2008 are disposed of as infructuous since now the complaints do not survive.

[14] Mr. U.T. Mishra, learned advocate for the respondents submitted that so far as the said forth complaint, i.e. Complaint No.6/1999 is concerned, the heirs of the deceased workman are already joined as party in the said proceedings and that, therefore, an appropriate application will be filed by the heirs / legal representatives of the deceased complainant to withdraw the complaint with a liberty to institute reference proceedings. He also submitted that the concerned heirs / legal representatives of the deceased workman will take necessary steps to raise industrial dispute and get the dispute referred for adjudication by way of reference under section 10 of the Act and thereafter they shall withdraw the said fourth complaint viz. Complaint No.6/1999.

[15] In view of the said submission, the forth petition, i.e. Special Civil Application No.550/2008 would also not survive and deserves to be disposed of in view of the submission and statement made by Mr. U.T. Mishra, learned advocate for the respondent workman, however, with clarification that in case of any difficulty if any further order or clarification becomes necessary, then it will be open to either side to file appropriate application so far as Special Civil Application No.551 of 2008 is concerned. Accordingly, with the said clarification the fourth petition i.e. Special Civil Application No.551 of 2008 is also disposed of. With the aforesaid directions and clarifications, the petitions are disposed of. Rule is discharged.