

HIGH COURT OF GUJARAT (D.B.)**SAURASHTRA CHEMICALS LIMITED***Versus***ARVINDBHAI KARASANBHAI MOTIVARAS & 1 OTHER(S)****Date of Decision:** 27 July 2022**Citation:** 2022 LawSuit(Guj) 6182**Hon'ble Judges:** [A J Desai](#), [Mauna M Bhatt](#)**Case Type:** Letters Patent Appeal; Special Civil Application; Civil Application (For Stay)**Case No:** 1005 of 2022, 1006 of 2022, 1007 of 2022; 6937 of 2012, 6934 of 2012, 6935 of 2012; 1 of 2022**Subject:** Civil**Final Decision:** Appeal dismissed**Advocates:** [Prateek Bhatia](#), [Nanavati Associates](#)**Cases Referred in (+):** 2**A.J.Desai, J.**

[1] By way of present group of appeals filed under Clause 15 of the Letters Patent, the appellant original petitioner has challenged the oral order dated 01.07.2022 passed by learned Single Judge in Special Civil Application No. 6934 of 2012 and allied matters, by which, the petitions filed by present appellant company came to be dismissed challenging the order dated 28.03.2012 passed by the Presiding Officer, Labour Court, Junagadh, camp at Porbandar, in Reference (L.C.J.) Nos. 231 of 2001, 229 of 2001 and 230 of 2001, by which, it was held that the action of the appellant company terminating the service of the respondents workmen is illegal, and instead of reinstating the respondents workmen, an amount of Rs. 2,34,000/- (to the applicant of Reference (L.C.J.) No. 231 of 2001), an amount of Rs. 4,21,000/- (to the applicant of Reference (L.C.J.) No. 229 of 2001) and also an amount of Rs. 4,36,000/- (to the applicant of Reference (L.C.J.) No.230 of 2001) has been awarded towards the lump sum compensation and an amount of Rs.1,000/- has been awarded towards the cost to each applicant.

[2] The short facts arise from the record are as under:

2.1. That the respondents workmen were working as casual workers as helper-cum-khalasi in the appellant company since 23.7.1986 (the applicant of Reference (L.C.J.) No. 231 of 2001), 08.08.1974 (the applicant of Reference (L.C.J.) No. 229 of 2001) and 15.09.1973 (the applicant of Reference (L.C.J.) No. 230 of 2001). A demand was raised by the respondent workmen through the union in the year 2001 to treat them as permanent workers, and pursuant to the demand made by the respondents workmen, the service of the respondents workmen came to be terminated by oral order dated 01.08.2001, and therefore, the grievance was raised by the respondents workmen.

2.2. The Presiding Officer, Labour Court, camp at Porbandar, Junagadh, by award dated 28.03.2012, passed award giving lump sum compensation to the respondents workmen i.e. Rs. 2,34,000/- (to the applicant of Reference (L.C.J.) No. 231 of 2001), an amount of Rs. 4,21,000/- (to the applicant of Reference (L.C.J.) No. 229 of 2001) and also an amount of Rs. 4,36,000/- (to the applicant of Reference (L.C.J.) No.230 of 2001) and also Rs.1,000/- towards the cost to each applicant.

2.3 Being aggrieved by the said award, the appellant - company challenged before learned Single Judge by way of filing captioned writ petitions, which came to be dismissed on 01.07.2022.

2.4. Hence, present appeals.

[3] Mr. Prateek Bhatia, learned advocate appearing for the appellant petitioner company, would submit that learned Labour Court as well as learned Single Judge have committed error in treating the respondents workmen as if they were regularly appointed and / or had worked and completed 240 days of continuing service prior to the date of their termination. By taking us through the documents at Exh.38 with regard to the applicant of Reference (L.C.J.) No. 231 of 2001, the documents at Exh. 29 with regard to the applicant of Reference (L.C.J.) No. 229 of 2001 and the documents at Exh.37 with regard to the applicant of Reference (L.C.J.) No. 230 of 2001, learned advocate for the appellant company would submit that it appears from these documents that the respondents workmen have not completed 240 days. He would further submit that the respondents workmen have worked as the "badli worker" and the same has been accepted in the cross-examination by one of the legal heirs of one of the respondent workmen i.e. respondent in Special Civil Application No. 6935 of 2012. By taking us through the cross-examination of widow of respondent workman, he would submit that the widow of the deceased respondent workman has accepted that the respondent workman has worked as a "badli worker" in the appellant

company, and therefore, he was entitled to the amount as awarded by learned Labour Court and confirmed by learned Single Judge of this Court.

[4] In support of his submissions, learned advocate for the appellant company, has relied upon the decisions in case of [Karnataka State Road Transport Corporation and Anr. Vs. S.G.Kotturappa and Anr.](#), 2005 3 SCC 409 and in case of [Banglore Metropolitan Transport Corporation Vs. T.V. Anandappa](#), 2009 17 SCC 473. He would submit that the "badli woker" would not be entitled for the relief, as prayed for, since they were not regularly appointed.

[5] We have heard learned advocate for the appellant company. Perused the order passed by learned Labour Court as well as learned Single Judge of this Court. It appears from the order of learned Labour Court, and particularly, the observations made in Para 13 of the order that the appellant company was directed to produce all the documents in connection with the respondents workmen i.e. the register maintained by the appellant company showing the attendance, details of the salary and presence card; however, the appellant company had only produced the documents at Exh.38 with regard to the applicant of Reference (L.C.J.) No. 231 of 2001, the documents at Exh. 29 with regard to the applicant of Reference (L.C.J.) No. 229 of 2001 and the documents at Exh.37 with regard to the applicant of Reference (L.C.J.) No. 230 of 2001 showing the presence of certain days of the respondents workmen, and therefore, learned Labour Court has rightly held that the respondents workmen had worked for 240 days, and particularly, it is an undisputed fact that the respondent sworkmen had worked from 1973 to 2001 i.e. for around 20 years with the appellant company.

[6] As far as the contention raised with regard to the "badli worker" in Letters Patent Appeal No. 1007 of 2022 in Special Civil Application No. 6935 of 2012 is concerned, the respondent workman had died during pendency of the reference. His widow was examined, and therefore, she must not have the knowledge or difference about the "badli worker" or workman as well as the knowledge about the work that her husband had done in the appellant company for a particular days in a month or in a year. Other two respondents workmen in Letters Patent Appeal Nos. 1006 of 2022 and 1007 of 2022, who have been cross-examined by the appellant company, have denied that they were the "badli workers" in the appellant company. Ordinary, the Court would not reapprciate the factual aspects when two concurrent findings are there; however, we have gone through the record. We are of the opinion that the appellant company, though order passed by learned Labour Court, did not produce the relevant documents showing the presence of the respondents workmen. It is also pertinent to note that learned Labour Court has, instead of reinstating the respondents workmen, has only awarded lump sum amount, which is a very meagre. The decisions, which were relied

upon by the learned advocate for the appellant company, would not be applicable to the facts and circumstance of present case. Hence, present appeals are dismissed.

[7] The amount of 25%, which is already deposited by the appellant company before the Registry of this Court, shall be disbursed forthwith in favour of the respondents workmen, after proper verification and rest of amount shall be paid within a period of six weeks from today, failing which, the appellant company shall pay interest at the rate of 6% from the date of the order of learned Labour Court.

[8] In view of the order passed in Letters Patent Appeals, civil applications do not survive and the same stand disposed of accordingly.

