

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 3290 of 2019****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE DEVAN M. DESAI**

=====

Approved for Reporting	Yes	No

=====

STATE OF GUJARAT
Versus
THAKOR SOMAJI HAMIRJI & ANR.

=====

Appearance:

MR MAYANK CHAVDA, AGP for the Petitioner(s) No. 1

MS SHREE PATHAK for MR PH PATHAK(665) for the Respondent(s) No. 1

RULE SERVED for the Respondent(s) No. 2

=====

CORAM: HONOURABLE MR. JUSTICE DEVAN M. DESAI**Date : 13/08/2026****JUDGMENT**

1. By way of this petition, the petitioner has prayed to quash and set aside the impugned judgment and award dated 18.12.2017 passed by learned Labour Court, Mahesana in Reference (LCA) No.119 of 2009 (Old Reference No.613 of 2003) below Exh.25.
2. Heard learned AGP Mr. Mayank Chavda for the petitioner and learned advocate Ms. Shree Pathak for respondent No.1. Though served, none appeared for respondent No.2. Perused the record.
3. Learned AGP for the petitioner contended that the impugned judgment and award is bad in law as the



workman was not on regular appointment. There is a delay of 3 years in raising industrial dispute. The alleged termination date is 27.9.2000 and the reference is filed in the year 2003. The workman being a casual worker cannot claim parity with the permanent employees. It is submitted that the workman has not established that he has completed 240 days preceding 12 months of the date of termination. No other submissions are made except the above.

4. *Per contra*, learned advocate for the respondent - workman has supported the judgment and contended that the workman has reached the age of superannuation in the year 2022 and the question of reinstatement is not in existence. It is therefore submitted that the workman be awarded lump-sum compensation considering the fact that he has put in 15 years of service as a daily wager with the petitioner. It is submitted that the learned Labour Court has rightly held that the termination is illegal. The petitioner has produced attendance sheet from 1986 to 1998. However, the material evidence from 1998 till the date of termination was not produced by the petitioner. On the basis of non-production of material evidence, the learned Labour Court has rightly held that the workman has proved and established completion of 240 days of service before 12 calendar months from the date of termination. Learned advocate for the respondent - workman has relied upon decision of the Hon'ble the Division Bench of this Court dated 9.5.2024 passed in Letters Patent Appeal No.908 of 2023 and allied



matters in the case of ***Bhikhabhai Fatabhai Solanki v. Executive Engineer, Narmada Project Canal System & Another*** and contended that considering the length of service, petitioner would be entitled to Rs.7,50,000/- as lump-sum compensation. No other submissions are made except the above.

5. I have considered the submissions canvassed by the learned advocates for the Parties and perused the papers available on record.
6. The record indicates that the workman was in the service of petitioner as a daily wager for 15 years before the date of termination on 27.9.2002. The workman raised a demand of regularization which was by way of SCA 12255 of 2001, SCA 10162 of 2002 to 10344 of 2002, wherein, by an order dated 22-04-2003 passed by the Coordinate Bench of this Court, a direction was given to approach the appropriate authority. During the pendency of the aforesaid petitions, the service of the workman came to be terminated on 27-09-2002. The evidence which is relied upon by the petitioner is attendance sheet for the year 1986-1998. The contention raised by learned AGP that considering the aforesaid evidence, the workman has not completed 240 days of service in each year. However, it is to be noticed at this stage that the relevant document from 1998 till the date of termination was withheld by the petitioner. In absence of material evidence produced by the petitioner, an adverse inference was drawn against the petitioner and learned Labour Court found that the workman has worked for more than 240 days and,



thereafter, there is a violation of the provisions of Section 25F of the Act. Petitioner was directed to produce attendance card, salary slip, seniority list for the period between 1986 up to 2000. However, petitioner did not comply with the order and did not produce relevant documents. For suppression of material evidence, an adverse inference is required to be drawn against the petitioner which learned Labour Court has rightly applied the said principle.

7. Since the workman has reached the age of superannuation in the year 2022, the question of reinstatement of the workman is not to be gone into. Moreover, the workman is also satisfied if a reasonable lump-sum compensation in lieu of reinstatement and other benefits.
8. In the case of ***Bhikhabhai Fatabhai Solanki (Supra)***, the Hon'ble Division Bench of this Court, while considering a case for a lump-sum compensation for a watchman who was working since 1.1.1984 and his services were terminated with effect from 14.10.1999, in paragraph No.10 which is reproduced hereunder, wherein, it is held that the workmen who worked for total number of 15-20 years, shall get a lump-sum compensation of Rs.7.5 lacs.

Sr. No.	Total Number of Years for lump-sum compensation	Amount of lump-sum compensation
1	5 to 10 years	Rs.3.00 lacs
2	10 to 15 years	Rs.5.00 lacs
3	15 to 20 years	Rs.7.5 lacs



9. Considering the duration of service of 15 years, long-standing uninterrupted service of the workman, the term of the workman cannot be ignored while considering a lump-sum compensation in lieu of reinstatement. Applying the principle laid down by the Honourable Division Bench of this Court, the workman is entitled to receive a lump-sum compensation of Rs.7,50,000/- as lump-sum compensation in lieu of reinstatement with other ancillary benefits. The aforesaid amount shall be paid to the respondent - workman within a period of six weeks from the date of receipt of copy of this order, failing which, the petitioner shall be entitled to an interest at the rate of 6% from the date of application till realization.
10. The petition is allowed in above terms. The impugned judgment and award is modified accordingly. Rule is made absolute accordingly. No order as to costs.
11. It is made clear that this judgment is delivered in light of smallness of amount and, therefore, it shall not be considered as precedent.
12. Connected civil application, if any, also stands disposed of.

(D. M. DESAI,J)

vk