

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 6973 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

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Approved for Reporting	Yes	No

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MOHANBHAI BHAYJIBHAI BARIYA
Versus
RANGE FOREST OFFICER & ANR.

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Appearance:

MR PRAKASH G PANDYA(3041) for the Petitioner(s) No. 1
MS AGNEYA MANKAD, AGP for the Respondent(s) No. 1
MR. KM ANTANI(6547) for the Respondent(s) No. 2

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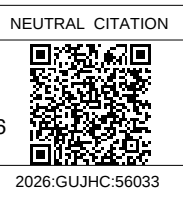
CORAM: HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 02/09/2026

ORAL JUDGMENT

1. Rule. Learned AGP waives service of notice qua respondent No.1.

2. By way of present petition, the petitioner assailed the judgment and order dated 12.02.2024 passed by the learned Presiding Officer, Labour Court, Nadiad, in Reference (LCN) No.27 of 2019 and also prayed to direct the respondent No.1 to grant the benefit of full back-wages with 18% interest and



continuity in service.

3. At the outset, learned advocate Mr. Pandya for the petitioner has fairly submitted that the issue involved in the present matter is no longer res integra and in similar set of facts, the Division Bench of this Court has passed common order dated 18.04.2024 in Letters Patent Appeal No.908 of 2023 and allied matters, whereby, though the claim of the concerned appellants – original petitioners for full back-wages and continuity in service has been turned down, the benefit of lump sum compensation to the family members of the deceased workman has been granted by the Division Bench. He further submitted that at the time of calculating the amount of lump sum compensation, the Division Bench has considered the number of years of service of the concerned workman and while calculating the number of years of service, the Division Bench has deducted the number of years of service for which there was delay in preferring the reference and after deducting such number of years of service, the Division Bench proposed the amount of lump sum compensation as follows:

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



4. Learned advocate Mr. Pandya submitted that petitioner workman was working as a security guard since 1988. The services of the workman concerned came to be terminated by the respondent No.1 w.e.f. 01.10.2016. Thus, the total length of services of the petitioner was approximately 26 years. It was the case of the petitioner that while terminating the service, the principles enunciated under the provisions of Section 25F of the Industrial Disputes Act had not been considered. Learned advocate Mr. Pandya further submitted that at the time of partly allowing the Reference, the learned Labour Court granted the benefit of lump sum compensation of Rs.20,000/- in lieu of back-wages and continuity in service and therefore the judgment and order passed by the learned Labour Court may be quashed and set aside and petition may also be allowed in terms of the decision of Division Bench of this Court.

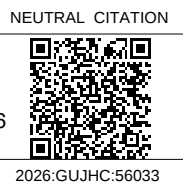
5. On the other hand, learned AGP has objected the petition and submitted that the petitioner was not regular employee and he was serving as daily wager. She further submitted that there was delay of 2 years and 7 months in preferring the reference before the Labour Court. However, she has fairly conceded that in similar set of facts, the Division Bench of this Court has passed common order dated 18.04.2024 granting the benefit of lump sum compensation to the concerned workmen considering their length of service. She, therefore, submitted that appropriate



order may be passed.

6. Having considered the submissions canvassed by learned advocates appearing for the respective parties and considered the materials placed on record, it transpires that petitioner was working as a Security Guard with the respondent No.1 since 1988. However, as per the case of the petitioner, his services came to be terminated by the respondent No.1 w.e.f. 01.10.2016. Thus, the total length of services of the petitioner was approximately 26 years. The issue involved in the present matter is no longer res integra and in similar set of facts, the Division Bench of this Court has passed common order dated 18.04.2024 in Letters Patent Appeal No.908 of 2023 and allied matters, wherein, following observations were made:

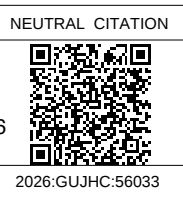
"8. It is not in dispute that the workmen were working as a Watchman with effect from the year 1984 and the workmen had rendered services from 16 years to 20 years. Therefore the core question for consideration in these appeals would be whether lump sum compensation could have been awarded instead of back-wages and continuity to the families of the deceased employees and further, if the order of lump sum compensation was right then what would be quantum of such lump sum compensation. While deciding the core question, the time gap which has intervened between the date of termination and the date of granting relief of lump sum compensation by the learned Single Judge has to be seen. The workmen were terminated way back in the year 1999 and the order of the learned



Single Judge was passed in the year 2018. In the recent years, there is shift of paradigm by granting lump sum compensation instead of back wages and continuity. Even if there is breach of Section 25F of the Act, it cannot necessarily mean to automatically entail the relief of reinstatement and back wages to the workmen. Obviously in the present case, there would not be a case of reinstatement as all the workmen have passed away, but reinstatement not being automatic, grant of lump sum compensation would meet the ends of justice.

8.1. The shift in law on this count was highlighted by the Supreme Court in **Bhopal Vs. Santosh Kumar Seal [(2010) 6 SCC 773]** relying on its own another decision in **Jagbir Singh Vs. Haryana State Agriculture Marketing Board [(2009) 15 SCC 327]**, observing that the relief of payment of lump-sum compensation could be a proper relief in a given set of facts and circumstances.

“In the last few years it has been consistently held by this Court that relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate. (See *U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey* [2006 (1) SCC 479], *Uttaranchal Forest Development Corpn. v. M.C. Joshi* [2007 (9) SCC 353], *State of M.P. v. Lalit Kumar Verma* [2007 (1) SCC 575], *M.P. Admn. v. Tribhuban* [2007 (9) SCC 748], *Sita Ram v. Moti Lal Nehru Farmers Training Institute* [2008 (5) SCC 75], *Jaipur Development Authority v. Ramsahai* [2006 (11) SCC 684], *GDA v. Ashok Kumar* [2008 (4) SCC 261] and *Mahboob Deepak v. Nagar Panchayat, Gajraula* [2008 (1) SCC



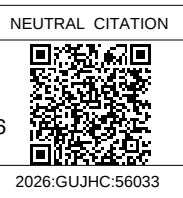
575]..)”

8.2. In subsequent decision in **Rajasthan Development Corporation Vs. Gitam Singh [(2013) 5 SCC 136]**, the Supreme Court stated,

“From the long line of cases indicated above, it can be said without any fear of contradiction that this Court has not held as an absolute proposition that in cases of wrongful dismissal, the dismissed employee is entitled to reinstatement in all situations. It has always been the view of this Court that there could be circumstance(s) in a case which may make it inexpedient to order reinstatement. Therefore, the normal rule that the dismissed employee is entitled to reinstatement in cases of wrongful dismissal has been held to be not without exception. Insofar as wrongful termination of daily-rated workers is concerned, this Court has laid down that consequential relief would depend on host of factors, namely, manner and method of appointment, nature of employment and length of service. Where the length of engagement as daily wager has not been long, award of reinstatement should not follow and rather compensation should be directed to be paid. A distinction has been drawn between a daily wager and an employee holding the regular post for the purposes of consequential relief.”

8.3. In **Uttaranchal Forest Development Corporation Vs. M.C. Joshi [(2007) 9 SCC 353]**, the Supreme Court held that the question of grant of compensation in place of relief of reinstatement could be guided by relevant factors to be that whether the appointment was made in accordance with the statutory Rules or not.

8.4. It is to be observed that the decisions of



the Supreme Court have carved out the circumstances and aspects which may guide the discretion of the court in awarding lump-sum compensation instead of granting relief of reinstatement even if there is a breach of Section 25F, 25G and 25H of the Industrial Disputes Act.

8.5. These factors were highlighted in **Bantva Municipality Vs. Amritlal Harji Chauhan** being **Special Civil Application No.9135 of 2013** decided on 31.3.2014 as under :-

“(i) The fact that the workman is daily-rated workmen, not permanently employed; (ii) He is not holding a permanent post; (iii) Nature of his employment; (iv) Span of service, viz. The period during which he worked upto the date of termination of services; (v) Manner and method of appointment. Whether it was a backdoor entry; (vi) The time gap from the date of termination; (vii) Delay in raising the Reference is also considered to be a germane factor; (viii) Any special feature peculiar to the facts of the particular case. For instance, in *Bhurumal* (supra), the Supreme Court noticed that post which the workman held was of Lineman in the Telephone Department, and that the work of Lineman was drastically reduced in view of advancement of the technology.”

8.6. In the case of **BSNL v. Bhurumal**, reported in (2014) 7 SCC 177, it was categorically observed that even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself.

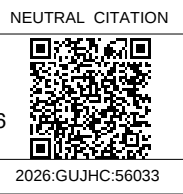
9. Therefore, looking to the gap of date of



appointment, date of termination, the order passed by the learned Single Judge is seen, grant of lump sum compensation cannot be faulted with.

10. Having come to the conclusion that the lump sum compensation would be appropriate remedy for the families of the deceased workmen, the other aspects which comes for consideration is quantum of lump sum compensation. Though learned advocate Mr. Bhatt has contended that there was delay in preferring the complaint and the subsequent reference, it can be observed from the pleadings that the averments with regard to delay and laches in preferring the reference were not made before the labour court as well as the learned Single Judge. Therefore, the argument of learned advocate Mr. Bhatt with regard to delay and laches in preferring reference cannot be countenanced and what needs to be seen is that almost all the workmen have put in 16-20 years of service for the respondent and their services were terminated without following due procedure of law. Therefore, the families of the deceased workmen needs to be compensated proportionally as to the number of years of service put in by them. However, in order to balance the equation, we have considered to give effect of delay in preferring the reference while enhancing the amount of compensation. Thus, while calculating the number of years of services, we proposed to deduct the number of years service for which there is delay in preferring reference. After deduction of such number of service, we propose to give compensation in the following tabular form:

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



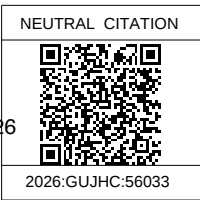
11. As the amount as awarded by the labour court is already paid by the respondent such amount shall be deducted from the total amount of compensation as per the above mentioned chart. To give effect of each and every appellants qua amount of compensation, the chart is reproduced herein-below."

7. Thus, it transpires from the aforesaid observations made by the Division Bench of this Court that while calculating the number of years of services, the Division Bench proposed to deduct the number of years of service for which there was delay in preferring reference e.g. if the total tenure of service of a workman was 20 years and if he filed the complaint/reference after delay of 1 year, then his total number of years for getting lump sum compensation should be 19 years. Here in the case on hand, the petitioner has filed the reference after delay of approximately 2 years and 7 months and therefore having regard to the facts of the present case and as learned AGP has not raised serious objection regarding the submission canvassed by learned advocate for the petitioner that the petition may be allowed in terms of aforesaid decision of the Division Bench of this Court as well as other issues involved in the matter, without further going into the merit of the matter, the petition is required to be allowed in terms of aforesaid order of the Division Bench. Now, for the purpose of computing the amount of lump sum compensation, the total length of



service of the petitioner i.e. approximately 26 years is to be considered and if the period of 2 years and 7 months i.e. the delay in preferring the reference is to be deducted, the total number of years of service of the petitioner for lump sum compensation would be 23 years and 5 months. Thus, as per the aforesaid tabular format, petitioner is entitled to get the amount of lump sum compensation of Rs.7.5 lakh. It is pertinent to note that the Labour Court had already awarded a lump-sum compensation of Rs.20,000/-. Therefore, if the said amount is already paid to the petitioner, he is entitled to receive a further amount of Rs.7.30 lakh as lump-sum compensation.

8. In view of the aforesaid discussion, the petition stands partly allowed. The impugned judgment and order passed by the learned Labour Court is hereby modified by enhancing the lump-sum compensation from Rs.20,000/- to Rs.7,50,000/-. As observed hereinabove, the Labour Court had already awarded lump-sum compensation of Rs.20,000/- to the petitioner. Therefore, if the said amount of Rs.20,000/- has already been paid to the petitioner, respondent No.1 shall pay a further amount of Rs.7.30 lakh to the petitioner towards lump-sum compensation. However, if the said amount of Rs.20,000/- has not been paid, respondent No.1 shall pay an amount of Rs.7.50 lakh to the petitioner towards lump-sum



compensation. Respondent No.1 is directed to make the aforesaid payment to the petitioner within a period of 4 weeks from the date of receipt of a copy of this order. In the event of failure to make the payment within the aforesaid period, the amount payable shall carry interest at the rate of 9% per annum from the date of expiry of the stipulated period until its actual realization.

LAVKUMAR J JANI

(DIVYESH A. JOSHI,J)