

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 11205 of 2019**

SAGATHIYA LAXMAN JESABHAI

Versus

THE RESIDENTIAL DEPUTY COLLECTOR &amp; ANR.

Appearance:

JEET Y RAJYAGURU(8039) for the Petitioner(s) No. 1

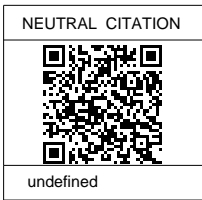
MR NIRAJ SHARMA AGP for the Respondent(s) No. 1

NOTICE SERVED for the Respondent(s) No. 2

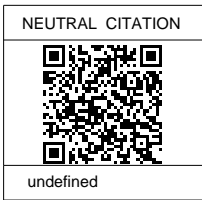
**CORAM: HONOURABLE MR. JUSTICE HEMANT M.  
PRACHCHHAK****Date : 18/06/2024****ORAL ORDER**

1. Present petition is filed by the petitioner under Articles 226 and 227 of the Constitution of India challenging the impugned award dated 29.11.2018 passed by the learned Judge, Labour Court, Jamnagar whereby the Labour Court has allowed the reference and awarded lump sum compensation.

2. Heard Mr. Jeet Rajyaguru, learned counsel appearing for the petitioner and Mr. Niraj Sharma, learned Assistant Government Pleader for the respondent - State Authority.



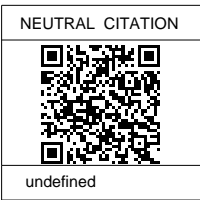
3. Mr. Jeet Rajyaguru, learned counsel appearing for the petitioner has submitted the same facts which are narrated in the memo of petition. He has submitted that the petitioner was appointed in the year 1997 for the post of peon purely on temporary basis and he had worked upto 2011 on the very post. He has submitted that considering the long period of service, the amount of compensation which is awarded by the respondent is very meagre and, therefore, this petition is filed. He has further submitted that the employer has adopted unfair labour practice and, therefore, the impugned award passed by the Labour Court is illegal and perverse. He has submitted that though the petitioner worked for more than two hours but no any evidence has been produced before the Labour Court and the petitioner is wrongly terminated from the service by the employer without following due procedure of law as prescribed under the provisions of the Industrial Disputes Act (hereinafter be referred to as "the ID Act". He has submitted that the Labour Court has failed to appreciate all these aspects while deciding the reference filed by the petitioner and, therefore, the impugned award passed by the Labour Court deserves to be quashed and



set aside and the amount of compensation deserves to be modified.

4. Per contra, Mr.Niraj Sharma, learned Assistant Government Pleader for the respondent has submitted that the petitioner was appointed purely on the temporary basis on the post of peon. He has submitted that the amount of compensation which has been awarded by the Labour Court is already deposited before the Labour Court. He has submitted that the petitioner was working from 1997 and again he had preferred an application on 28.07.2006 as he came to know about such vacancy for the post of peon and, therefore, the employer issued appointment order on 30.08.2006 to the petitioner wherein a specific condition is mentioned that his appointment is purely temporary and only for the purpose of two hours and his salary is fixed. He has referred to the affidavit-in-reply more particularly para - 8 which reads as under:-

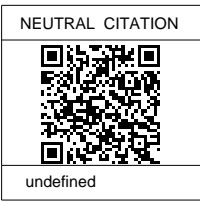
“8. It is further submitted that he was released from services on 01.05.2011 he had preferred an application before the learned Assistant Labour Commissioner on 24.05.2013 i.e. after a gross delay of 2 years. The said application was converted into reference in labour court on 16.08.2013, the said reference was partly allowed by the



Labour Court on 29.11.2018 wherein the learned Labour Court had passed an award regarding lumpsum compensation of Rs.50,000/- in lieu of reinstatement and cost of reference Rs.1000/-. The respondent had even deposited the said sum of Rs.51,000/- before the learned Labour Court.”

4.1 Mr.Sharma, learned Assistant Government Pleader has submitted that the Labour Court has not committed any error in awarding the lump sum compensation to the petitioner. He has submitted that the present petition is required to be dismissed.

5. Now, considering the legal position regarding effect of non-compliance of Section 25F of the ID Act as well as submissions made on behalf of both the sides and the materials placed on record which includes the impugned award, it is crystal clear that the employee i.e. petitioner, by way of present petition, has challenged the award granting lump sum amount of compensation of Rs.50,000/-. It also appears that the Labour Court has clearly observed that the petitioner was working purely on temporary basis and he was getting monthly salary of Rs.900/-. It appears that the petitioner was working from 1997 and when the petitioner came to know about the vacancy for the post of peon, again he had preferred an application in 2006 and



thereafter the respondent has issued appointment order on 30.08.2006 to the petitioner with a specific condition that his appointment is purely on temporary and the same is only for the purpose of two hours and even his salary is fixed at Rs.900/-. On perusal of the award, it appears that the Labour Court has not committed any error in awarding lump sum compensation to the petitioner and therefore the petition is devoid of merits.

6. In view of the above, the petition deserves to be dismissed and accordingly, it is dismissed. Notice is discharged. There shall be no order as to costs.

V.R. PANCHAL

**(HEMANT M. PRACHCHAK,J)**