

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 534 of 2022

In R/SPECIAL CIVIL APPLICATION NO. 7863 of 2020

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MAHESHBHAI GOVINDBHAI PATEL

Versus

MOTHER DAIRY FRUIT AND VEGETABLE PVT LTD

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Appearance:

MR GIRISH M DAS(2323) for the Appellant(s) No. 1
for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE R.M.CHHAYA

and

HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK

Date : 18/04/2022

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE R.M.CHHAYA)

1. Feeling aggrieved and dissatisfied by the order dated 22.7.2021 passed by the learned Single Judge in Civil Application (for direction) no.1 of 2021, the original respondent-applicant before the learned Single Judge has preferred this intra-Court appeal.

2. At the outset, it deserves to be noted that the main matter is admitted and stay is granted and this intra-Court appeal is filed against the interim order on payment of wages as provided under Section 17B of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act").

3. Heard Mr. Girish M. Das, learned advocate for the appellant - original respondent. Mr. Das states that as far as the entitlement of wages is concerned under

Section 17B of the Act, the original respondent-appellant/applicant would be entitled for wages from the date of the award and not from the date on which the petition was filed before this Court.

4. No other or further submissions, averments, grounds and/or contentions are made by Mr. Das, learned advocate appearing for the appellant.

5. The learned Single Judge has observed thus:-

"4. However in view of the decisions rendered by more than one Division Bench of this Court holding that the workman is entitled for the wages under Section 17B of 'the Act' from pendency of the proceedings, which has been interpreted to be from the date of filing of the original petition by the employer challenging the judgment and award whereby the workman is directed to be reinstated, two decisions are cited i.e. in the case of Airport Authority of India Vs. Bharat H. Parmar reported in 2011 (1) GLH 347 and another being Letters Patent Appeal No.513 of 2008 in the case of Mitco Management Services Pvt. Ltd. Vs. Ketankumar Mukundrai Patel dated 31.07.2018. The facts and details of those decisions are not elaborated as there is no dispute so far as principle determined in the said decisions are concerned and being Single Judge, the Court is bound by the precedents determined by the Court, and therefore, the issue raised by Shri Girish M. Das, learned advocate for the applicant that the workman is entitled for the wages under Section 17B of 'the Act' from the date of award cannot be granted in view of the aforesaid decisions. However he is held to be entitled to have the wages under Section 17B of 'the Act' from the date of filing of the original petition in the present case. Shri Jigar M. Patel, learned advocate for the petitioner, has submitted that if the applicant is not paid from the date of filing of original petition itself, it will be paid within a period of four weeks from today. However, it is clarified that this Court has not gone into the issue whether in case the workman succeeds in this Court would he be entitled for the wages from the

date of award or filing of the original petition challenging the order of his reinstatement at the hands of the employer."

6. Section 17B of the Act clearly provides that when the Labour Court directs reinstatement of any workman and the employer prefers any proceedings against such award in a High Court, the employer shall be liable to pay such workman "during the period of pendency of such proceedings in the High Court full wages last drawn by him inclusive of any maintenance allowance admissible to him under any rule if the workman had not been employed in any establishment during such period".

7. We are in total agreement with the observations and the conclusions arrived at by the learned Single Judge. Keeping all the other contentions on merits open before the learned Single Judge, the appeal is not entertained and is dismissed. However, there shall be no order as to costs.

(R.M.CHHAYA,J)

(HEMANT M. PRACHCHHAK,J)

BIJOY B. PILLAI

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