

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8341 OF 2019
(Arising out of SLP(CIVIL) No.20636 of 2017)

GANPATBHAI HEMCHANDRABHAI SHRIMALI

APPELLANT(S)

VERSUS

SUPERINTENDING ENGINEER, GUJARAT
ELECTRICITY BOARD & ANR.

RESPONDENT(S)

O R D E R

Leave granted.

Heard learned counsel for the parties.

The short dispute is whether the appellant is entitled to notional calculation of his back-wages by including the increments from 1994 to 1996. The appellant, who was a workman, was dismissed from service on 19.08.1993. He filed a reference after some gap and finally vide an award dated 01.10.1999, passed by the Presiding Officer, Labour Court, Palanpur, the termination order dated 19.08.1993 was set aside and the appellant was rendered to entire back-wages of service.

This order was challenged by the employer before the High Court and the Single Judge of the High Court vide judgment dated 09.04.2002 upheld the award of the Labour Court on merits. However, with regard to the

relief, the High Court modified the award only in respect to the back-wages to the effect that the respondent/workman would be entitled for back-wages at the rate of 50% from the date on which the reference was made which was in the year 1996 till 01.10.1999. The LPA was dismissed on 04.03.2003 and attained finality.

Thereafter, all other benefits have been paid to the employee but the increments of two years have not been taken into consideration. The reference was made in the year 1996 and though the termination was in the year 1993, the Labour Court had granted back-wages from the date of termination. The High Court only directed that the appellant would be entitled to 50% of the back-wages and that too from the date of reference. As far as continuity of service is concerned that benefit was granted by the High Court also.

Since this benefit of two increments was not granted to the appellant, he had to again approach the High Court in second round of litigation. The Single Judge granted benefit to the appellant, but in appeal filed by the employer it was partially allowed vide impugned order which is under challenge.

Once the benefit of continuity of service was granted, the appellant's pay even in the year 1996 from which date he was entitled to 50% back-wages was to be calculated by giving the notional benefit of the increments due for the previous years. Appellant could

not have been denied the benefits for future. He may not get the monetary benefit of those increments for two years for which he has been denied back-wages but this has a cascading effect and he cannot be denied fixation of pay in the year 1996 by giving him the benefit of the two increments.

We, therefore, allow the appeal, set aside the order of the High Court and direct that the appellant should be granted benefit of those two years increments with effect from 1996 as per the orders of the High Court.

.....J.
(DEEPAK GUPTA)

.....J.
(ANIRUDDHA BOSE)

New Delhi
November 04, 2019

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).20636/2017

(Arising out of impugned final judgment and order dated 29-03-2017 in LPA No.404/2017 passed by the High Court Of Gujarat At Ahmedabad)

GANPATBHAI HEMCHANDRABHAI SHRIMALI

Petitioner(s)

VERSUS

SUPERINTENDING ENGINEER GUJARAT ELECTRICITY BOARD
& ANR.

Respondent(s)

Date : 04-11-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s)

Mr. Nikhil Goel, AOR
Ms. Naveen Goel, Adv.
Mr. Dushyant Sarna, Adv.
Mr. Piyo Harold, Adv.

For Respondent(s)

Mr. Pradeep Misra, AOR
Mr. Suraj Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, stands disposed of.

(ARJUN BISHT)
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

(signed order is placed on the file)