

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 13453 of 2022****With****R/SPECIAL CIVIL APPLICATION NO. 21976 of 2023****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**

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Approved for Reporting	Yes	No
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AHMEDABAD MUNICIPAL TRANSPORT SERVICE THROUGH
TRANSPORT MANAGER & ANR.

Versus

MANSURI FIROZABANU RIZWAN WD/O MANSURI RIZWAN
FAKIRMOHMED

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Appearance:

MR HS MUNSHAW(495) for the Petitioner(s) No. 1,2

MR PARESH J BRAHMBHATT(9788) for the Respondent(s) No. 1

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**CORAM: HONOURABLE MR. JUSTICE HEMANT M.
PRACHCHHAK**

Date : 02/03/2026

JUDGMENT

1. Present petition is filed by the petitioner under Articles 226 and 227 of the Constitution of India read with the provisions of the Industrial Disputes Act, 1947 seeking following reliefs:

“(A) Be pleased to allow the Special Civil Application;

(B) Be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction, for quashing and setting the award dated 24.11.2021 delivered by the learned Labour Court at Ahmedabad partly allowing Reference (LCA) No.625 of 2004;

(C) Pending admission hearing and final disposal of the

Special Civil Application, be pleased to stay the execution, implementation and operation of the award dated 24.11.2021 delivered by the learned Labour Court at Ahmedabad partly allowing Reference (LCA) No.625 of 2004;

(D) Be pleased to pass such other and further relief/s which may be deemed fit just and proper."

2. Brief facts giving rise to the present petition are that, the respondent was employed with the petitioner in the Stores Department as a daily wage labourer from 03.02.1998 on temporary and ad hoc daily wage basis. That, the respondent was not offered any permanent and sanctioned post. That, from 23.04.2002, the respondent stopped receiving work from the petitioner due to non-availability of work and funds. Consequently, the respondent approached the Labour Court, Ahmedabad by way of filing Reference (LCA) No.625 of 2004 praying for reinstatement with continuity and backwages on the ground that he was not offered work from 23.4.2002. That, the respondent had passed away on 05.12.2018. That, the Labour Court vide award dated 24.11.2021 had partly allowed the reference and directed the petitioners to pay lump sum compensation of Rs.1,20,000/- in lieu of reinstatement and backwages to the widow of the respondent.

3. Being aggrieved and dissatisfied with the impugned award dated 24.11.2021 passed by the Labour Court, the petitioner has preferred the present petition.

4. Heard Mr. HS Munshaw, learned counsel for the petitioners and Mr. Paresh J Brahmbhatt, learned counsel for the respondent. Perused the material available on record.

5. Learned counsel Mr. Munshaw has submitted that the impugned judgment and award passed by the Labour Court is illegal, unjust, arbitrary, erroneous and contrary to the facts and material on record and the provisions of the Act and therefore, is required to be quashed and set aside. He has submitted that the Labour Court has not considered the fact that the respondent was offered work upto 2002 but due to administrative and financial reasons, it was not possible to continue daily wage and hence, he was not offered work and therefore, it cannot be considered as retrenchment or termination. He has submitted that the Labour Court ought to have appreciated the fact that the respondent was employed purely on temporary and ad hoc basis and was not holding any permanent and sanctioned post and, therefore, had no right to continue in employment of the petitioner irrespective of availability of work and funds. Over and above the grounds agitated in the memo of petition, learned counsel Mr. Munshaw has urged that the impugned award passed by the Labour Court is required to be quashed and set aside and the present petition is required to be allowed.

6. As against that, learned counsel Mr. Brahmbhatt, appearing for the respondent-workman, has opposed the present petition and submitted that there is no any infirmity or any illegality in the impugned award passed by the Labour Court and therefore, no interference is required to be called for in the present petition. He has submitted that the impugned award passed by the Labour Court is in consonance with the settled principles of law and is passed after following due procedure and therefore, the same is required to be confirmed and the present petition is

required to be dismissed and no interference is required to be called for while exercising jurisdiction under Article 227 of the Constitution of India.

7. Considering the submissions canvassed by learned counsel appearing for the respective parties and the impugned award passed by the Labour Court, it appears that the Labour Court has rightly appreciated the evidence while coming to the conclusion and without there being any rebuttal. In view of the decision of the Hon'ble Supreme Court in the case of **Maharashtra State Cooperative Marketing Federation Limited Versus Suresh S/o Dadarao Gadge** reported in **(2015) 4 SCC 542** and the oral order dated 18.04.2024 passed by the Division Bench of this Court in **Letters Patent Appeal No. 908 of 2023 and allied appeals** where it has been held that in all the case where the termination is found illegal, the order of reinstatement cannot be passed automatically and more particularly para - 10 and the order dated 18.04.2024 passed by the Division Bench of this Court in **Letters Patent Appeal No.1091 of 2023 and allied appeals** more particularly paras - 5 and 6, this Court is of the opinion that the purpose would be served if lump sum amount of Rs.1,20,000/- awarded by the Labour Court is enhanced.

8. The relevant para - 10 of the oral order dated 18.04.2024 passed by the Division Bench of this Court in Letters Patent Appeal No. 908 of 2023 and allied appeals reads thus:-

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

9. The relevant paras 5 and 6 of the oral order dated 18.04.2024 passed by the Division Bench of this Court in Letters Patent Appeal No. 1091 of 2023 and allied appeals reads thus:-

"5. Therefore, looking to the gap which intervened between the date of termination and the date of granting reinstatement, the approach of the learned Single Judge granting lump sum compensation cannot be faulted with.

6. Looking to the various aspects and factors which are considered above, like the nature of employment, time gap intervened, length of service, the compensation awarded to the tune could not be said to be unreasonable. Therefore, Letters Patent Appeals preferred by the Municipality on the question of amount of compensation as well as appeals preferred by the workmen seeking reinstatement are liable to be dismissed. However, in one of the matters being Letters Patent Appeal No. 701 of 2023 in Special Civil Application No. 18334 of 2021 in the case of workman being Koli Vairaginiben Ramkumar, we

observe that the compensation given by the learned Single Judge is to the tune of Rs.6,25,000/- for 11 years of service. It can be observed from the order passed by the learned Single Judge that such amount is proportionally different from the other set of amounts which are given as compensation. However, for the identical years of work i.e. 11 years of service, the other workmen are granted an amount of Rs.3,25,000/- as lump sum compensation. Thus, we are inclined to modify the amount of lump sum compensation in Letters Patent Appeal No. 701 of 2023 to the tune of Rs.3,25,000/- from Rs.6,25,000/-. Hence, Letters Patent Appeal No. 701 of 2023 is partly allowed to the aforesaid extent, whereas, all the other Letters Patent Appeals stand dismissed as no ground is made out to interfere with the order of the learned Single Judge."

10. Now, considering the materials placed on record and the peculiar facts of this case, this Court is of the opinion that instead of granting any back wages and reinstatement in service as prayed for, it would be just and proper to pay lump sum compensation of Rs.3,00,000/- as full and final settlement to the legal heirs of the respondent, which will serve the ends of justice.

11. With the aforesaid conclusion, the petition stands allowed in part. The impugned award passed by the Labour Court is hereby quashed and set aside and the award is modified accordingly. An amount of Rs.3,00,000/- as lump sum compensation shall be paid to the legal heir of the workman by the employer after proper verification of the identity and bank details through RTGS within a period of eight weeks from the date of receipt of the writ of this order. If the amount of Rs.1,20,000/- is paid by the employer then the same shall be deducted from the aforesaid amount of Rs.3,00,000/- and if the said amount is not paid then the lump sum amount which is

awarded by this Court shall be paid to the workman. There shall be no order as to costs.

12. In view of the order passed in Special Civil Application No. 13453 of 2022, the cross petition of the workman being Special Civil Application No. 21976 of 2023 stands disposed of.

(HEMANT M. PRACHCHHAK,J)

ANUSRI

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ANUSRI VASU(HC02352), ENGLISH STENO GRADE-II\, at High Court of Gujarat on 05/03/2026 16:45:20