**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/SPECIAL CIVIL APPLICATION NO. 12726 of 2020**

**FOR APPROVAL AND SIGNATURE:**

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

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| Approved for Reporting | Yes | No |
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STATE OF GUJARAT & ANR.
Versus
JAGDISHBHAI CHHAGANBHAI PATEL & ANR.

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Appearance:
MS ROSHNI PATEL, ASST. GOVERNMENT PLEADER for the Petitioner(s) No. 1,2
FRESH RULE SERVED(4513) for the Respondent(s) No. 2
MR JIGNESH D LAMBA(12891) for the Respondent(s) No. 1
MR YOGEN N PANDYA(5766) 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 petitioners - State Authorities under Articles 226 & 227 of the Constitution of India read with the provisions of the Industrial Disputes Act, 1947 (hereinafter be referred to as "*the Act*") challenging the judgment and award dated 24.10.2019 passed by the learned Presiding Officer, Labour Court, Jamnagar (hereinafter be referred to as "*the Labour Court*") in Reference (LCJ) No. 40 of 2016 whereby, the learned Judge has partly allowed the reference filed by the respondent-workman and granted reinstatement without continuity of service and without back wages.

2. Brief facts leading to the present petition are that, the respondent-workman had worked with the petitioner department as a daily wager from 01.06.1993 to 31.12.2008 with a constant wage of Rs. 2,500/- and that his services came to be terminated orally on 31.12.2008 without any issuance of notice, without stating any reason and without any pay in lieu of notice and therefore, the respondent-workman raised industrial dispute before the Labour Court by filing Claim Statement on 27.09.2016. That, the petitioner-department opposed the claim of the respondent by way of filing written statement and also produced evidence on affidavit. That, the Labour Court, Jamnagar after considering the submissions and after considering the evidence produced on record, partly allowed the Reference (L.C.J) No. 40 of 2016 by passing impugned judgment and award dated 24.10.2019.

3. Being aggrieved and dissatisfied with the impugned judgment and award dated 24.10.2019 passed by the Labour Court, Jamnagar in Reference (L.C.J) No. 40 of 2016, the petitioners have preferred the present petition.

4. Heard Ms. Roshni Patel, learned Assistant Government Pleader, appearing for the petitioner – State Authorities and Mr. Yogen Pandya, learned counsel appearing for the respondent-workman.

5. Learned AGP Ms. Patel 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 is based on assumption and presumption and therefore, is required to be quashed and set aside. She has submitted that the impugned award is passed without any

jurisdiction as much as there is no evidence produced by the respondent-workman in support of his claim. She has further submitted that the Labour Court has committed a grave error in not considering the case of the petitioner that the respondent-workman had voluntarily left and chosen to remain continuously absent. She has further submitted that the respondent-workman had never worked with the petitioners and had continuously remained absent during his service tenure. Over and above the grounds agitated in the memo of petition, learned AGP Ms. Patel has urged that the impugned award is required to be quashed and set aside and the present petition is required to be allowed.

6. As against that, learned counsel Mr. Yogen Pandya, appearing for the respondent-workman, has opposed the present petition and submitted that in case of similarly situated workman, who had challenged the award of the Labour Court, Jamnagar of the even date i.e. 24.10.2019 passed in Reference (LCJ) No. 56 of 2016 before this Court in Special Civil Application No.5191 of 2020, this Court has allowed the petition vide order dated 09.08.2021 and directed the respondents – State Authorities to reinstate the petitioner on his original post with continuity of service without back wages. He has further submitted that the said order of the learned Single Judge was further challenged by the respondents petitioners herein in Letters Patent Appeal No.729 of 2022 and other allied appeals, which came to be dismissed by the Division Bench vide order dated 07.06.2022. He has further submitted that the State Authorities had thereafter filed Review Application challenging the order of the Division Bench, which also came to be dismissed vide order dated 05.04.2024 and, therefore, learned counsel Mr. Pandya has urged that the present petition be dismissed.

7. At this stage, it would be appropriate to refer to the decision of the Hon'ble Supreme Court in the case of Gurpreet Singh vs State of Punjab And Ors., reported in (2002) 9 SCC 492, wherein it has been observed thus:-

> *"3. Having heard the learned counsel for the parties and on examining the materials on record, we fail to understand how the continuity of service could be denied once the plaintiff is directed to be reinstated in service on setting aside the order of termination. It is not a case of fresh appointment, but it is a case of reinstatement. That being the position, direction of the High Court that the plaintiff will not get continuity of service cannot be sustained and we set aside the part of the impugned order. So far as the arrears of salary is concerned, we see no infirmity with the direction which was given by the lower appellate court taking into account the facts and circumstances including the fact that the suitwas filed after a considerable length of time. That part of the decree denying the arrears of salary stands affirmed and this appeal stands allowed in part to the extent indicated above."*

8. Thus, the Hon'ble Supreme Court has enunciated that the continuity of service cannot be denied to the workman if he is directed to be reinstated in service on setting aside the order of termination.

9. I have heard the learned counsel appearing for the respective parties and perused the material placed on record and also the decision of the Hon'ble Supreme Court in case of Gurpreet Singh (Supra). The fact remains that in case of similarly situated workman, this Court has allowed the petition in favour of the concerned workman and against the present petitioners vide order dated 09.08.2021. The same was carried further in Letters Patent Appeal by

the petitioners herein, which came to be dismissed by the Division Bench vide order dated 07.06.2022. Against which, the petitioners had filed Review Application almost after two years i.e. in the year 2024, which also came to be dismissed vide order dated 05.04.2024. In view thereof, the present petition does not survive and the same is required to be dismissed.

10. In the result, the present petition is hereby dismissed. Rule is discharged. There shall be no order as to costs.

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

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Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: DOLLYBEN CHETANBHAI VADUKAR(HC01392), PRIVATE SECRETARY, at High Court of Gujarat on 02/03/2026 17:22:29