



भारत सरकार / Government of India

# सरकारी राजपत्र OFFICIAL GAZETTE

संघ प्रदेश दादरा एवं नगर हवेली तथा दमण एवं दीव प्रशासन  
U.T. ADMINISTRATION OF DADRA AND NAGAR HAVELI AND  
DAMAN AND DIU

श्रेणी - २  
SERIES - II

प्राधिकरण द्वारा प्रकाशित / PUBLISHED BY AUTHORITY

**Daman** 15<sup>th</sup> November, 2024 24 Kartika, 1946 (Saka) No. : 34

GOVT. OF INDIA  
DNH Administration (UT)  
Office of the Commandant  
INDIA RESERVE BATTALION  
Lakshadweep, Daman & Diu and Dadra & Nagar Haveli  
RHQ Silvassa-396230

F.No.01/17/2018-IRBN/SIL/1539

Dated: 14/10/2024

## OFFICE ORDER

With reference to the application and the basis of his Aadhar card, PAN card and affidavit submitted, Shri. Vijay V Mangela is hereby permitted to publish the proposal to change his name in the Official Gazette of DNH & DD, from VIJAY V MANGELA to VIJAY VASUDEV.

This issue with the approval of the Commandant, IRBn, HQ Kavaratti vide para-134 dated 09/10/2024.

Sd/-

**Ram Ayodhya Singh**  
Assistant Commandant  
India Reserve Battalion  
RHQ Silvassa.

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संघ प्रदेश दादरा एवं नगर हवेली तथा दमण एवं दीव प्रशासन,  
**U.T. of Administration of Dadra & Nagar Haveli and Daman & Diu,**  
 श्रम एवं रोजगार, वभाग, दमण  
**Department of the Labour & Employment, Daman**  
 दूसरी मंजिल, उधोग भवन, भेंसलोर, नानी दमण  
**2<sup>nd</sup> Floor, Udyog Bhavan, Bhenslore, Nani Daman**

No. श्रम एवं रोजगार/श्रम निरीक्षक/दमण/UPWA-02/2023/2024/526

Date: 5/11/2024

Subject: Publication of Award in Payment of Wages Appeal No. 01/2023 in the Official Gazette.

With reference to the above cited subject, the Award dated 19.10.2024 issued by the Hon'ble Chairman, Industrial Tribunal and Principal District Judge, Daman in Payment of Wages Appeal No. 01/2023 in the matter of (Hotel Dariya Darshan V/s. Bhavin Kanubhai Patel) is here by published in the Official Gazette of this UT Administration of Dadra & Nagar Haveli and Daman & Diu for general information.

Sd/–  
**(Aarti Agrawal)**  
 Deputy Director-cum-Deputy Secretary (Labour)  
 DNH & DD

UTDD010009922023



Presented on : 21/10/2023  
 Decided : 19/10/2024  
 Duration : 0Y 11M 29D

**BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL AND**  
**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,**  
**DAMAN**

(Presided over by Sunil G. Vedpathak)

**Payment of wages Appeal No. 01/2023**

**Exh. No: 9**

Hotel Dariya Darshan,  
 Represented through Narendra Ganji  
 Age: 47 Yrs., Occu.: Service  
 R/o. Devka Beach, Marwad,  
 Nani Daman, Dist. Daman

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Appellant

V/s.

Bhavin Kanubhai Patel,  
 Age: Major Yrs. Occ. Nil.  
 R/o. 204, Jalaram Complex,  
 Opp. Sadar Bhiladwala Bank,  
 Rentlav, Udwarda Railway Station,  
 Dist. Valsad, Gujarat

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Respondent

**Appearance:**

Adv. Shri Manoj N. Parekh for the appellant.  
 Respondent appeared in person.

**AWARD**

(Passed on 19/10/2024)

1. This is an appeal by appellant (original opposite party) under Sec.17 of Payment of Wages Act challenging the judgement and order dtd. 11.09.2023 passed by Commissioner for Workmen/Authority under the Payment of Wages Act, 1936 i.e. the Collector, Daman.
2. The respondent Bhavin Kanubhai Patel was in the employment of appellant M/s. Hotel Dariya Darshan, Marwad road, Devka under the Payment of Wages Act, 1936, claiming an amount of Rs.8,21,900/- towards the pending salary/wages.
3. After hearing both parties and considering the evidence before it, Collector, Daman allowed the claim of respondent with direction to the appellant to pay an amount of Rs.8,21,900/- to respondent towards pending salary/wages for the period from 01.04.2017 to 30.09.2022 within 30 days of receipt of this order failing which action will be taken for additional adjudication of the property under Sec. 17 of Payment of Wages Act, 1936.
4. Disappointed with the said order, appellant has filed this appeal mainly on the ground of maintainability of claim of respondent before the Collector, Daman under Payment of Wages Act. In short, according to appellant as per Sub-Sec.1 of Sec. (6) of Payment of Wages Act any employee is having monthly salary/wages more than Rs.24,000/- then his claim for arrears of wages is not maintainable under the Payment of Wages Act. As such, it is submitted that the impugned order of Collector, Daman without jurisdiction. Therefore, the same is liable to be declared as illegal and unenforceable.
5. It is a matter of record that while filing the present appeal, appellant had deposited amount of Rs.8,21,900/- in the office of Collector, Daman.
6. The respondent duly served with the notice, he appeared personally in the matter. However, he did not file his say in writing but preferred to submit oral argument.
7. During the course of oral argument it is submitted on behalf of appellant since the impugned order passed by Collector, Daman is without jurisdiction and therefore it is unlawful, illegal and unenforceable as per Sec.1 (6) of Payment of Wages Act, the jurisdiction to pass order regarding payment of arrears of wages of respondent does not come within the power/purview of Collector.
8. The respondent during the course of oral argument submitted that initially he has filed his claim for arrears of wages before Labour Inspector. However, instead of deciding the same Labour Inspector forwarded his said application to Collector, Daman. Nowhere he was advised by Labour Inspector or Collector, Daman that his claim is not maintainable before Collector, Daman or to which authority he

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Hotel Dariya Darshan V/s. Bhavin Patel.

should approach for redressal of his grievance. Therefore, he became helpless. According to him, any how he should receive arrears of wages from appellant.

9. Having heard argument of Ld. Adv. Shri. Manoj N. Parekh for the appellant and respondent in person. Following points arose for my consideration. My finding thereon, followed by reason, thereof are as under;

Sr. No.	POINTS	FINDINGS
1.	Whether the order under appeal is without jurisdiction, illegal and unenforceable?	Yes.
2.	Whether an interference is required in the impugned order dated 11.09.2023 in UPWA - 02/2023 by Collector, Daman?	No.
3.	What order.	As per final order.

## **REASONS**

### **POINT NO.1 AND 2 :-**

10. It is in not dispute that the respondent is the employee of appellant and he raised his claim of arrears of wages for the period from 01.04.2017 to 03.09.2022 total Rs.8,21,900/- with contention that initially he was getting monthly salary of Rs.40,000/- and then it was increased upto Rs.45,000/-. This particular aspect reflect in the impugned order and same is not disputed by the respondent. It is made clear that the Payment of Wages Act, 1936 does not apply to such workmen who draw wages of Rs.16000/- or more per month under Payment of Wages Act, and therefore competent authority has no authority or jurisdiction to act under the Payment of Wages Act, 1936. So under such circumstances and in view of the observations of their Hon'ble Lordships in following cases order under appeal is illegal being without jurisdiction.

i) Tyre Retreading Shop Committee, Hyderabad V/s. A.P.S.R.T.C., Hyderabad & Ors. reported in Writ Petition No.713781992 dtd. 20.08.1992.

ii) J.P. Transport Company & Ors. V/s. Shankarlal @ Mavaram Nathuji Patel reported in S.C.A No.268/1998 dtd. 22.07.1993.

iii) Madure Coats, Ltd. Tuticorin V/s. Authority under Payment of Wages Act, 1936 (Dy. Commissioner of Labour) Tirunetveli & Ors. Reported in 2000 (2) L.L.N. 697.

iv) Singareni Collieries Workers' Union of India V/s. Singareni Collieries Company Ltd. & Anr. reported in 2012-I-LLJ-493 (AP).

v) BSES Rajdhani Power Ltd. V/s. Union of India and Ors. Reported in 2012-I-LLJ-500 (Del).

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- vi) D.A.V. Public School (U.P.), Merrut V/s. Prescribed Authority (Minimum Wages Act) Assistant Labour Commissioner, Bijnor & Ors. Reported in 2009 L.L.R 399.
- vii) Shri. Agrwal Shiksha Samiti and Anr. V/s. Moti Chand Jain & Ors., reported in 2009 LLR 401.
- viii) Regional Director, Employees State Insurance Corporation V/s. Madhavi Enterprises Madras, reported in 2009 LLR 401.
- ix) Merind Ltd. & Anr. V/s. Prescribed Authority (Under Payment of Wages Act) Bijnor and Assistant Labour Commissioner reported in 2009 LLR 812.
- x) Punjab University Chandigarh V/s. Presiding Officer, Labour Court, Chandigarh & Anr. reported in 2009 L.L.R. 812.

11. It is also made clear that since 28.08.2017 and in view of amendment in Payment of Wages Act, Central Government has raised limit of wages to workmen upto Rs.24,000/-.

12. Thus, considering the fact that the respondent being workmen was drawing monthly salary more than Rs.24,000/-, and therefore certainly Collector, Daman has no jurisdiction/power or authority to pass the order under the Payment of Wages Act. Therefore, it goes without saying that the impugned order is illegal without jurisdiction, and therefore unenforceable. As such, the appeal carries the merits and deserves to be allowed. Hence, I pass following order.

### **ORDER**

1. The appeal is allowed.
2. The impugned order dtd. 11.09.2023 passed by competent authority i.e. Collector, Daman in UPWA No.02/2023 is hereby declared as unlawful, illegal, unenforceable and thereby it is set aside.
3. The Collector, Daman shall release and pay an amount of Rs.8,21,900/- to appellant which it had deposited in its office after expiry of appeal period if any.
4. The respondent is directed to take steps/recourse before competent forum for claim of arrears of his wages.

Place: Daman.  
Dated: 19/10/2024

Sd/-  
**(Sunil G. Vedpathak)**  
Chairman, Industrial Tribunal and  
Principal District Judge,  
Daman.

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