



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

असाधारण EXTRAORDINARY

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Administration of
Dadra & Nagar Haveli and Daman & Diu, U.T.
Labour Department,
Silvassa.

No. LEO/Misc. Corr./2023/1792

Dtd. 06/12/2024

Subject: Regarding Publication of Awards delivered by the District & Sessions Court, DNH,
Silvassa.

With reference to the above cited subject, the Award passed in IDR No. 01/2013 is here by
published in the Official Gazette of this UT Administration of Dadra & Nagar Haveli and Daman & Diu
for general information.

Sd/—
(Aarti Agarwal)
Deputy Secretary (Labour & Employment)
Dadra & Nagar Haveli and Daman & Diu
Daman

**CNR No. UTDN01-000104-2013**

Presented on :22/01/2013

Registered on :22/01/2013

Decided on :09/10/2024

Duration : **11 Y 08 M 18 D****Exhibit No.37****BEFORE THE PRESIDING OFFICER, LABOUR COURT,
DADRA & NAGAR HAVELI, AT SILVASSA.**

(Presided over by Mr. A. A. Bhosale)

I.D.R. No. 01 / 2013**ADJUDICATION BETWEEN**

M/s. Alok Industries Ltd.,
Survey No. 17/5/1,
Silvassa - Khanvel Main Road,
Village - Rakholi.

..First Party**AND**

Mr. Sanjay Pal,
Ishwarbhai ki chawl,
Opp. Shri Krishna Industries,
Samarvarni, Silvassa.

**..Second
Party****Appearances :**

Mr. Subhash Tiwari, Ld. Advocate for first party.

Mr. R. P. Shukla, Ld. Advocate for second party.

**Reference u/s 10(1) of
The Industrial Disputes Act, 1947.****A W A R D**

(Delivered on 09/10/2024)

1] That, the second party workman raised an industrial dispute and filed an application dated 04.09.2012 before the Conciliation Officer against the management of M/s. Alok Industries Limited alleging that company management had removed him from the service w.e.f. 20.07.2012 without giving him any notice or reasons. In the conciliation proceeding, the first party company agreed that it shall take the second party workman back in service. The workman was

directed to rejoin his duty from 25.12.2012. The first party was directed to rejoin him w.e.f. 25.12.2012 and to submit compliance report thereof. It is contended in the reference order that workman approached the conciliation officer on 26.12.2012 and submitted that he went to the factory premises of the first party company on 25.12.2012 to report for duty. But, the officers from the first party company made him sit but didn't allow him to work. Hence, as the conciliation proceeding failed, the Conciliation Officer has submitted his failure report u/s 12(4) of The Industrial Disputes Act, 1947 (*hereinafter referred to as I.D. Act*) before the appropriate Government. Then, the Labour Commissioner, Dadra & Nagar Haveli, Silvassa, by his order dated 08.01.2013, was pleased to refer present dispute for ad-judication u/s 10(1)(c) of the I.D. Act to this Labour Court.

2] On receipt of the reference, this Court had issued notices to both the parties. Both the parties have appeared before the Court. Second party workman filed Statement of Claim which are at Exh.08 & Exh.17.

The sum and substance of the claim of second party workman is as follows :-

3] That, the second party workman was working with the first party company since 01.11.2006 on the post of Office Boy (Admin.) and was drawing the salary @ Rs.4,000/- per month. It is contended that the second party was never served with any kind of notice

or memo during service tenure and his service record remains unblemished.

4] It is alleged by the second party workman that company management took stern decision of termination of the second party on 10.07.2012, which was verbal in nature. It is contended that all this happened, because of the second party demanded his fundamental rights of rightful hike in annual salary. It is further contended that on 10.02.2012, Mr. Shambhu Mahato, head of the department, where second party was working, came to the second party and started using dirty words. It is further alleged that on that day, the said Mr. Shambhu Mahato assaulted to second party and because of which, his hearing power of left ear was lost. So, the second party gave written complaint to the Administrator and police department of Silvassa. Therefore, on 10.07.2012, as vengeance the first party company wrongly terminated the second party. So, the second party workman filed application before the competent authority on 08.01.2013, but the settlement couldn't be arrived at.

5] *Inter-alia*, in the background of above contentions and allegations, the second party workman is seeking declaration that the termination of the services of the second party workman w.e.f. 10.07.2012 is illegal, improper and he is also seeking direction against the first party to reinstate him on his original post with continuity of service alongwith all consequential benefits and with full back wages.

6] In the present case, the first party company initially failed to file his Written Statement. So, my Ld. Predecessor was pleased to pass an order to proceed the reference without say of the first party on 28.10.2015. However, then the first party company filed application below Exh.09 seeking permission to allow it to produce on record the Written Statement on 28.10.2015. However, the said application came to be rejected by my Ld. Predecessor. So, the Written Statement couldn't be taken on record.

7] Considering the question framed in the reference order of the dispute, following points arise for my determination. I have recorded my findings thereon for the reasons to be discussed hereinafter :-

<u>Sr. No.</u>	<u>POINTS</u>	<u>Findings</u>
1)	Whether the action of the management of M/s. Alok Industries Limited, Rakholi in allegedly terminating the services of second party workman w.e.f. 20.07.2012 is legal and justified ?	...In the negative
2)	If not, to what relief the second party workman is entitled ?	Second party is entitled for reinstatement of service with full back wages w.e.f. 20.07.2012
3)	What order ?	Reference is answered in affirmative

For point nos.1 & 2 :-

8] The second party in order to prove his claim has filed his affidavit of chief-examination vide Exh.28. He has reiterated the averments in his chief-

examination, as per the statement of claim. Hence, not necessary to produce it again. Infact, the Ld. Advocate for the first party conducted cross-examination to some extent. But, after recording of the cross-examination, it was pointed out by the Ld. Advocate of the second party that the Written Statement of the first party is not taken on record. Hence, cross-examination of second party cannot be read in evidence.

9] Thus, the entire evidence and the pleadings of the first party has remained unchallenged. The first party has produced on record the copy of the order passed by the Commissioner of the Employees Compensation, Silvassa passed in E.C. Case No.85 of 2019, alongwith list at Exh.35. As per the said order, present second party workman has filed his claim with regard to the injury sustained to him during the course of his employment in M/s. Alok Industries Ltd. In the said order, it is clearly held that the injury was caused to the workman during the course of employment. The first party company was directed to deposit sum of Rs.4,27,603/- alongwith interest @ 12% till realization of the amount of compensation. Thus, it can be seen that the second party is the workman within the meaning of sub-section (s) of sec.2 of The Industrial Disputes Act, 1947. As per the order of the reference, the present first party was under obligation to allow the second party to rejoin his duty w.e.f. 25.12.2012 and to submit its compliance report. But, no such compliance report is produced. It is the case of the second party that he remained present on 25.12.2012

before the first party company for resuming his duty. But, the management of the first party didn't allow him to continue with the work. The first party has not produced any order in writing showing the termination or removal of the second party from its employment. Not only this, but also, even no reason is assigned for the alleged termination or removal of service. Therefore, it has to be held that the action of management of the first party in terminating the services of the second party is not legal and justified. ***Hence, point no.1 is answered into negative.***

10] As point no.1 is answered into negative, the second party is entitled to for declaration that his termination from the services w.e.f. 20.07.2012 is illegal and wrongful. Further, he is entitled for reinstatement of service with full back wages w.e.f. 20.07.2012. Hence, point no.2 is answered accordingly. In the result, I pass following final order :-

:- O R D E R :-

- i)** The reference is answered in affirmative.
- ii)** The claim of second party stands allowed.
- iii)** It is hereby declared that the termination of second party workman namely Mr. Sanjay Pal by the management of M/s. Alok Industries Ltd., Rakholi, is wrongful and illegal.
- iv)** The second party is entitled for reinstatement into the services of the first party company and also for the full back wages w.e.f. 20.07.2012.
- v)** Copy of the award be sent to appropriate Government under section 17(1) of The Industrial Disputes Act, 1947, for publication in such a manner as the appropriate Government

deems fit.

Place : Silvassa.
Date : 09/10/2024.

Sd/-
(Mr. A. A. Bhosale)
Presiding Officer,
Labour Court,
Dadra & Nagar Haveli,
Silvassa.
