



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 27th February, 2026 8 Phalgun, 1947 (Saka) No. : 08

UT Administration of
Dadra & Nagar Haveli and Daman & Diu
Office of the Secretary (Revenue & Disaster Management), DNH & DD
Secretariat, Daman - 396 215

No. 34/UTEOC/DM/CMGforOPI/2024-25/68

Date: 23/02/2026

- Read:**
- No. 16/02/2023-SS dated 05/02/24 from the Secretary (Security), GoI
 - No. 701/22/CMG dated 08/03/24 from Indian Coast Guard Air Station, Daman

ORDER

In the letter read 1. above, the Secretary (Security), the Government of India, has stated to constitute the Crisis Management Groups (CMGs) for the management of oil pollution incidents at the State, district and local levels. Furthermore, the Crisis Management Groups are requested to be constituted and notified in accordance with the National Oil Spill Disaster Contingency Plan (NOSDCP), with the guidance of Indian Coast Guard representatives, if necessary.

2. The Commandant, Indian Coast Guard Air Station Daman (ICGAS) in the letter read 2. above, has stated that the Indian Coast Guard is the Nodal Agency for handling crises arising out of oil and hazardous and noxious substances spill at sea as per the Crisis Management Plan (CMP) 2019. Chapter 2 of NOSDCP mandates the constitution of Crisis Management Groups at the State/UT, District, and Local Level by all Coastal States/UTs.

The UT Administration of Dadra & Nagar Haveli and Daman & Diu hereby constitutes the State/UT Level Oil Spill Crisis Management Group for the management of oil spill incidents along sea shorelines, and intertidal zones of Daman and Diu coast as follows: -

1	Advisor to the Administrator/Chief Secretary	Chairperson
2	Secretary (Revenue & Disaster Management)	Member
3	Secretary (Forest & Environment)	Member
4	Secretary (Labour)	Member
5	Secretary (Health)	Member
6	Secretary (Industries)	Member
7	Secretary (Fisheries)	Member
8	Secretary (Public Works Department)	Member
9	Secretary (Transport)	Member
10	Chairman, Pollution Control Committee	Member
11	Chief Inspector of Factories	Member
12	Dy. Inspector/Inspector General of Police	Member
13	Commanding Officer- Indian Coast Guard Air Station, Daman	Member
14	Commanding Officer-Indian Coast Guard Station, Veraval	Member
15	Director, Fire & Emergency Service	Member
16	2 Experts nominated by State/UT Government:- i. One Expert (Industrial Safety & Health) ii. One expert from the National Institute of Oceanography (NIO)	Member
17	Representative from Industry to be nominated by the State/UT Government	Member
18	Secretary (Port)	Member Secretary
19	Any other Member deemed necessary by the Chairperson	

Further, since the coastal districts of Daman and Diu are non-major ports and do not handle cargo, passenger, or commercial operations, the UT Administration of Dadra & Nagar Haveli and Daman & Diu hereby constitutes the same District and the Local Oil Spill Crisis Management Group as follows: -

1	District Collector	Chairperson
2	Superintendent of Police	Member
3	Deputy Conservator of Forest	Member
4	Chief Executive Officer, District Panchayat	Member
5	Chief Officer, Municipal Council	Member
6	Executive Engineer, Public Works Department	Member
7	Executive Engineer, Electricity	Member
8	Assistant Director/Divisional Fire Officer	Member
9	Chief Medical Officer	Member
10	Port Officer	Member
11	Road Transport Officer/Motor Vehicle Inspector	Member
12	Zonal/Agriculture Officer	Member
13	Representative of the Pollution Control Committee	Member
14	Labour Officer/Inspector	Member
15	2 Experts nominated by the Chairperson:- i. One representative from the Indian Coast Guard Daman/Veraval ii. One expert (Industrial Safety & Health)	
16	One Representative from the industry to be nominated by the Chairperson	Member

17	One Representative from the Trade Union/Transporter of Hazardous Chemicals/Boat Owners	Member
18	Sub Divisional Magistrate	Member Secretary
19	Any other Member deemed necessary by the Chairperson	

The State/UT Oil Spill Crisis Management Group and District/Local Oil Spill Crisis Management Group shall function as per the National Oil Spill Disaster Contingency Plan 2015.

By order and in the name of the Administrator,
Dadra & Nagar Haveli and
Daman & Diu (UT)

Sd/–
(Vivek Kumar),
Joint Secretary (Revenue)

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, विभाग, दमण
Department of the Labour & Employment, Daman
दूसरी मंजिल, उद्योग भवन, भेंसलोर, नानी दमण
2nd Floor, Udyog Bhavan, Bhenslore, Nani Daman

No. LE/LI/DMN/Fact-17/2018/2026/737

Date: 24/02/2026

Subject: Publication of Award in IDR in the Official Gazette.

With reference to the above cited subject, Award received from I/c. Superintendent, Civil & Criminal Court, Daman in IDR No. 10/2018 dated 15.01.2026 of M/s. All Time Plastics Pvt. Ltd., V/s. Ashok Jha is here by publish in the Official Gazette of this UT Administration of Dadra & Nagar Haveli and Daman & Diu for general information.

Sd/–
(Aarti Agrawal)
Dy. Director-cum-Dy. Secy. (Labour)
DNH & DD

UTDD010008432018

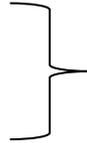


Received on : 25/09/2018
 Registered on : 25/09/2018
 Decided on : 15/01/2026
 Duration : Yrs. Ms. Ds.
 07. 03. 21.

IN THE COURT OF THE LABOUR JUDGE, At: DAMAN
 (Presided over by Pranita P. Bharsakade-Wagh)

I.D.R No. 10/2018
Exh. No. 53

M/s All Time Plastics Pvt. Ltd.,
 Plot no. 377-1 & 2,
 Kachigam Char Rasta,
 Kachigam, Nani Daman.



.....First Party

V/s.

Ashok Jha,
 RCL- 40/48,
 Chanod Colony,
 GIDC, Vapi



.....Second Party

Reference of Industrial Dispute as
per section 10 (1) (c) of the Industrial
Disputes Act, 1947.

Appearance: Advocate M.N. Parekh, for the First Party.
 Advocate C.K. Modasia, for the Second Party.

I.D.R. No. 10/2018

AWARD

(Delivered on 15th Day of January, 2026)

This is a reference forwarded by the Labour Commissioner, Daman to the Labour Court. It has been stated that an industrial dispute exists between the management of M/s. All Time Plastics Pvt. Ltd., Plot No. 377-1 and 2, Kachigam Char Rasta, Kachigam, Nani Daman and its workman Mr. Ashok Jha, RCL-40/48, Chamod Colony, GIDC, Vapi, specified in the second schedule. In exercise of the powers conferred by clause “c” of sub-section 1 of section 10 of the Industrial Disputes Act, 1947, the following issue has been referred for adjudication.

“Whether termination of the service of the applicant is justified? If yes, what relief the workman is entitled to?”

2) After receiving the reference, notices were issued to both the parties i.e. second party claimant Mr. Ashok Kumar Jha and the first party company M/s. All time Plastics Pvt. Ltd. Accordingly, the

I.D.R. No. 10/2018

second party claimant Mr. Ashok Kumar Jha appeared through Advocate and filed his statement of claim vide Exh. 7 and the first party company filed reply to the claim vide Exh. 16. It has been submitted by the second party that the first party is a private limited company having its manufacturing unit and registered office at B-30, Royal Industrial Estate, Naigaum 'X' Road, Wadala, Mumbai - 400013. The second party workman was working with the first party company since 12.11.1999 to 21.01.2018 in Dispatch Department as a Dispatch Executive. He worked hard and with full dedication during the services of his tenure with the first party. However, few employees of the first party did not like him and hence time to time used to make false complaints to the higher management of the first party about him. Without any attempt to verify and giving any opportunity, the first party issued a letter on 21.01.2018 to the second party intimating that his performance is poor and hence his services is terminated. Hence the second party has been relieved from services by illegal termination.

3) It is further submitted by the second party that he neither given any opportunity to give explanation nor any disciplinary or departmental enquiry was conducted. No charges were framed or allegations were informed against him by the first party. The second party was given notice on 21.01.2018 evening and was asked to come next day and receive legal dues and to submit resignation and leave the company forever. On 21.01.2018, the second party went to the first party company and tried seeking reason of his termination. But the second party just told him to resign and go away with the settlement amount. The second party resisted but he was forced to sign the resignation. Therefore, the second party had no option but to leave. His resignation was obtained under pressure, force and threat and he was given a cheque of Rs. 2,37,340/- as his full and final settlement amount which is a very less amount than his legal dues. He is unemployed since his termination. The second party approached and lodged report about the payment of improper and insufficient legal dues and illegal termination of his services on 28.01.2018. Hence both the parties were called for conciliation by the Conciliation Officer. But the attitude of the management was adamant and ultimately the reconciliation failed. Hence, the Conciliation Officer filed the reconciliation failure report on 14.09.2018 and based on the said failure report, Labour Commissioner has referred the said industrial dispute to Labour Court for adjudication. It is further submitted that the amount of Rs. 2,37,340/- received by the second party is not acceptable and he is ready to return it to the first party as and when called and directed by the Court. Vide his claim, the second party has prayed for declaration that the workman was terminated illegally without following due process of law and also prayed for direction to reinstate him with full back wages, benefit of seniority of his services and continuation of his service till date.

4) The first party vide its reply at Exh. 16 has taken objection to the claim of the second party on the following grounds:

- (1) That the present reference is not legally tenable and maintainable as the second party has no legal right and cause of action to raise the industrial dispute of the present nature and the Labour Court does not have jurisdiction to adjudicate the present reference.

I.D.R. No. 10/2018

- (2) The second party was working as a Dispatch In-charge in the supervisory and administrative capacity and his last drawn salary was more than Rs. 31,000/-. Hence, the second party does not fall within the definition of workman. Therefore, the second party is not legally entitled to have recourse to the remedy provided under the Industrial Disputes Act.
- (3) The first party had submitted representations dated 22.05.2018 and 24.06.2018 containing the above stated facts during the proceeding before the Deputy Commissioner of Labour, however the present order of reference has been made mechanically without taking into consideration the points of law and facts raised by the first party as per those representations.
- (4) The company has terminated the services of the second party as per the order dated 20.01.2018 w.e.f. 21.01.2018. The second party not being a workman, the legality of that order of termination cannot be looked into and cannot be decided by the Labour Court as the Labour Court has no jurisdiction to decide the same.
- (5) The second party has been paid all his legal dues amounting to Rs. 2,37,340/- on 02.02.2018 which has been duly received by the second party.
- 5) In view of the aforesaid grounds, the first party has prayed to dismiss and reject the claim of the second party.
- 6) On the basis of the rival contentions of both the parties, following issues were framed by my learned Predecessor vide Exh. 17.

Sr.No.	Issues	Findings
1)	Whether termination of service of the employee is wrongful?	Redundant
2)	Whether the employee is entitled to the relief of re-instatement?	Redundant

- 7) Thereafter, following additional issues are framed by this Court on 15.10.2025

Sr.no.	Additional Issues	Findings
3)	Whether the second party proves that he was working in the capacity of workman in the company of first party?	No.
4)	What Award and order?	As per final order.

REASONS

8) When the matter was kept for argument by giving opportunity to lead evidence and accordingly the second party filed and he was cross-examined by the first party and thereafter evidence close pursis filed by both the parties vide Exh.52.

9) To prove his claim the second party has filed his evidence affidavit vide Exh. 19 and additional evidence affidavit vide Exh. 51, after framing the additional issues. He has relied upon following documentary evidence: Copy of complaint (Exh.28), Conciliation Report (Exh. 29), appointment letter (Exh. 32), termination letter (Exh. 33) and letter to Labour Officer (Exh. 34).

As to Issue No. 3:-

10) On perusal of the reference and pleadings of both the sides, it reveals that much emphasis has been given on the issue that the second party does not fall in the category of workman. Therefore, this issue has been taken up for consideration on the first priority. It transpires from the contents of the affidavit that the second party was working with the first party since 12.11.1999 to 21.01.2018 in Dispatch Department as Dispatch Executive. He was working under the manager Uma Shankar Pandey and as per his direction he had to do all the assigned work.

11) The second party has admitted the following facts in his cross-examination:-

- (1) He was working as a Dispatch In-charge in the first party company and his last drawn salary was around Rs. 31,000/-.
- (2) Santoshkumar, Chedilal, Gulabchand Yadav, Rajelsh Mangela and Pramodchand Ahir worked as per the work allotted to them by him.
- (3) He used to pay attention whether those persons have worked properly or not.
- (4) The performance appraisal form at Exh. 35 of aforesaid workers bears his signature and he has signed thereon as supervisor.
- (5) The leave cards at Exh. 36 to 38 are signed by him in the capacity of departmental head.
- (6) He used to demand required manpower and material in Dispatch Department from the management.

12) The definition of “workman” is provided in section 2(s) of the Industrial Disputes Act, 1947. It reads as under:

“workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for

I.D.R. No. 10/2018

hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

- (i). who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or*
- (ii). who is employed in the police service or as an officer or other employee of a prison; or*
- (iii). who is employed mainly in a managerial or administrative capacity; or*
- (iv). who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]*

13) The learned Advocate for the second party claimant has argued that the second party falls in the category of a workman. To show that the second party was working with the first party company in the capacity of a worker, an additional evidence affidavit was filed at Exh. 51 wherein the second party has deposed that being old worker of the company he was assigned the work to look after the work of dispatch as per the order of manager Mr. Umashankar. He was looking after loading and unloading work of the company and was receiving goods through packaging department store to fix in a row. He was personally checking the stock and record and also respond to senior on daily basis. He was working as per the directions of the manager Umashankar Pandey and used to do all assigned work. He was doing over time work and as he was old experienced worker, his salary was high. However, he was performing the duties as a workman and was also looking after the work of other workers. His cross-examination reveals that he has admitted following facts: that finished packed goods used to come to Dispatch Department, he used to work in Dispatch Department as a dispatch executive and 4 to 5 workers were working under him in Dispatch Department, he used to arrange for the logistics for local dispatch, he used to give direction to the workers regarding loading of the goods in the transport vehicles.

14) It is the argument of the learned Advocate for the second party that the second party falls in the category of a workman though he was not getting high salary more than Rs. 10,000/-. The nature of work has to be seen to assess whether the second party falls in the category of workman or not. The learned Advocate for the first party has also argued on the same line regarding the nature of work. The learned Advocate for the first party has kept reliance on the following citations in support of his argument:

- (1) **Lenin Kumar Ray vs. M/s. Express Publication (Madurai) Ltd., 2024 LLR 1299.**
 - (2) **Rita Sachdeva vs. Secretary (Labour) & Ors., 2024 LLR 874.**
 - (3) **M/s. Express Publications (Madurai) Ltd. vs. Lenin Kumar Ray, 2022 LLR 630.**
 - (4) **Industrial Co-operative Bank Ltd. & Anr. vs. The State of Assam & Ors., 2023 LLR 835.**
- 15) Following ratio is laid down in the aforesaid citations:
- (1) That onus of proving the nature of employment rests on the person claiming to be a “workman” within the defining of section 2(s) of the Industrial Dispute Act.
 - (2) When the employee does not fall under the ambit of ‘workman’ under the Industrial Disputes Act, there would be no violation of procedure on the part of the management in terminating his services when notice pay was paid as per the appointment order and the same was accepted by the employee.
 - (3) The determinative factor for “workman” covered under section 2(s) of the Industrial Disputes Act is the principal duties and functions performed by an employee in the establishment and not merely the designation of his post.
- 16) Coming to the case in hand, admittedly the second party claimant was working as a dispatch executive with the first party. His nature of work shows that 4 to 5 workers were working under him. His work was of supervisory nature. No where it is seen from his evidence that he was doing the work of loading-unloading of the material or arranging it in the dispatch section. All that which reveals from his evidence is that he was acting in the capacity of supervisor. The second aspect which needs to be seen is that he was drawing wages exceeding Rs. 10,000/- per month. It is the contention of the second party that he was getting his salary including remuneration for his over time service. However, no such salary slip is produced on record to show the bifurcation of the salary and the payment for over time work. Therefore, it leads to draw inference that the second party was getting salary/wages more than Rs. 10,000/-. It has been argued by the learned Advocate for the second party that as per the Minimum Wages Act, even the minimum wages of a labourer are more than Rs. 10,000/-. Therefore, this limit of Rs. 10,000/- cannot be considered for deciding the designation of second party. However, in my view, the object behind the Minimum Wages Act and Industrial Disputes Act regarding the wages are different. Therefore, the analogy laid down in the Minimum Wages Act cannot be made applicable to the Industrial Disputes Act for deciding whether a person is a “Workman” or not.
- 17) The evidence on record, establishes that the second party was working with the first party company in supervisory capacity and not in the capacity of a “workman”. Therefore, I answer issue No. 3 in the negative.

I.D.R. No. 10/2018

As to issue No.1.2 and 4:-

18) The Court has arrived at the conclusion that the second party was not working in the capacity of a workman with the first party company. Hence the issues, “Whether termination of service of the employee is wrongful?” and “Whether the employee is entitled to the relief of re-instatement?” becomes redundant as this Court has no Jurisdiction to decide the said issues. Accordingly, I answer the said issues.

19) As the second party claimant has failed to prove that he was working with the first party company in the capacity of a “workman”, he is not entitled for the relief of reinstatement. Hence, the following order:

ORDER

- (1) The reference is answered in the negative.
- (2) A copy of the order be sent to the Commissioner (Labour) for information and necessary action.

Date: 15.01.2026
Daman

Sd/-
(Pranita P. Bharsakade-Wagh)
Labour Judge, Daman

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, विभाग, दमण
Department of the Labour & Employment, Daman
दूसरी मंजिल, उद्योग भवन, भेंसलोर, नानी दमण
2nd Floor, Udyog Bhavan, Bhenslore, Nani Daman

No. LE/LI/DMN/Fact-4(7)/2013/2026/738

Date: 24/02/2026

Subject: Publication of Award in IDR in the Official Gazette.

With reference to the above cited subject, Award received from I/c. Superintendent, Civil & Criminal Court, Daman in IDR No. 02/2015 dated 08.12.2026, 12.01.2017 and 06.02.2026 of M/s. Perfect Filaments Pvt. Ltd., V/s. 1. Sanjay Mishra 2. Dilip Singh 3. Rahul M. Jamdade are here by publish in the Official Gazette of this UT Administration of Dadra & Nagar Haveli and Daman & Diu for general information.

Sd/-
(Aarti Agrawal)
Dy. Director-cum-Dy. Secy. (Labour)
DNH & DD

Received on : 20/08/2015
Registered on : 20/08/2015
Decided on : 08/12/2016
Duration : Yrs. Ms. Ds.
01. 03. 18.

IN THE COURT OF THE CIVIL JUDGE SR. DN., At: DAMAN
(Preceded over by Smt. S.S. Nagur, Civil Judge Sr. Dn., Daman)

I.D.R No. 02/2015.Exh. No. 20.

M/s Perfect Filaments Pvt. Ltd.,
Plot No. 285/1,
Panchal Udhyog Nagar,
Bhimpore, Nani Daman.

.....First Party.

And

1. Sanjay Mishra
2. Dilip Singh
3. Rahul M. Jamdade
Govindbhai ki Chawl,
Room No.11, Amaliya,
Near Dahyabhai ki Building,
Dabhel, Nani Daman.

.....Second Party.

Industrial dispute has referred under Section 12(5)
r/w. Section 10 (1)(c) of the Industrial Dispute Act,
1947.

Advocate Shri R.D. Jadhav, Secretary of the Second Party.
Without reply of First Party Company.

I.D.R. No. 02/2015.

Exh. No.20.**J U D G M E N T****(Delivered on 08/12/2016)**

(1) The reference is filed by second party workmen Shri Dilip Singh, Shri Sanjay Mishra and Mr. Rahul M. Jamdale against their dismissal by first party company M/s. Perfect Filaments Pvt. Ltd. to Deputy Secretary (Labour and Employment), Administration of Daman and Diu, Daman. The conciliation failed hence Deputy Secretary, (Labour and Employment) on 29.07.2015 that referred the matter for adjudication under Section 12(5) read with Section 10 (1) (c) of Industrial Dispute Act, 1947.

(2) The second party workmen filed statement of claim at Exh.3. It is the case second party workmen that the first party company M/s. Perfect Filaments Private Limited is incorporated on 02.09.1994. In the year 2011 it was converted to public limited company from private limited company. The company was merged from Kruti Polyester to Perfect Filaments Private Limited in 2007-2008. The second party workmen Mr. Dilip Singh, Mr. Sanjay Mishra and Mr. Rahul M Jamdale are working as permanent workers since 05.05.2010, 01.04.2007 and 26.03.2008 respectively. The suspension order was issued on 13.11.2013 to these workers. Incident dated 12.11.2013 Sanjay Yewale that they assaulted him around 5.40 p.m. The show cause notice was issued to them. The said show cause was replied by the second party workmen. However, the first party company even though issued charge-sheet and appointed Enquiry Officer failed to held departmental enquiry against the second party workmen.

(3) The first party company is not holding domestic enquiry nor it has given the consequential benefits to the second party workmen. The act of the first party company is that of termination without enquiry. The principles of natural justice are not followed by the first party company. The termination amounts to illegal dismissal. Hence, this reference.

(4) The first party company even after service of notice though appeared through one Ramesh Singh on 16.01.2010 but failed to file reply. Therefore, the reference proceeded further domestic enquiry.

(5) In view of the pleading of second party workmen and the failure report of Conciliation officer following points arise for my determination and reasons with findings thereon are as under:-

	Points	Findings
(1)	Whether the dismissal of the second party workmen employees is illegal and without holding departmental enquiry?	‘Yes’
(2)	Whether second party workmen are entitled for reinstatement with full back wages?	‘Entitled to compensation’
(3)	What order?	‘Reference is allowed’

REASONS

(6) Heard Shri R.D. Jadav Secretary for second party workmen.

As to points No. 1 to 3:-

(7) The second party workmen to prove the contents of statement of claim and their illegal dismissal examined Sanjay Mishra by filing affidavit. The first party company remained absent. Hence the contents of the affidavit has gone unchallenged.

(8) The second party workmen has relied on the suspension order issued to three workers dated 13.11.2013 (Exh.7), charge-sheet to three workers dated 09.12.2013 (Exh.08), letters to the company by the Union for back on duty dated 28.07.2014 & 14.10.2014 (Exh.9 & 10), correspondence in respect of non-compliance of statutory provisions with the company and authorities (Exh.11), Reply to the charge sheet (Exh.12), letter dated 27.12.2013 received by the workers regarding the intimation about enquiry (Exh.13), letters to the Enquiry Officer dated 05.01.2014, 06.01.2014, 17.02.2014, 03.03.2014 reg. covered by the reference (Exh.14, 15, 16 & 17) and order of Reference dated 29.07.2015 (Exh.18).

(9) The above documents on record shows that the first party company appeared before the Labour Commissioner. However, they failed to hold enquiry against the workers in respect of allegations leveled in the charge-sheet. The first party company insisted these workers to report in the gate to sign the register so as to give them the suspension benefits. However, there is no attempt on the part of the first party company to have a communication with the second party workmen in respect of their employment with the first party company.

(10) The first party company did not complete the enquiry though it has adjourned the enquiry by letter dated 27.12.2013 intimating these employees that the enquiry was to be hold on 13.11.2013. However, due to some unavoidable circumstances it could not be hold on that and nor fixed on 06.01.2014. But the above letters itself suggest that the intimation of the next of the enquiry that too after period of two months is communicated to the employees after a period of more than one month.

The suspension of employees will not amount to proof of the allegations made against these workers. The first party company should have conducted enquiry against the workers. The first party company after issuance of charge-sheet did not complete the enquiry. They have also not communicated to these workers in respect of their employment. Even during the proceeding before Labour Commissioner for a period of more than one year they did not complete the enquiry initiated on the basis of allegations of incident dated 12.11.2013. The first party company has knowledge of pending of proceeding then too failed to appear and contest the proceeding. The first party company failed to even prove the allegation leveled in charge sheet before the Court against the second party workmen Mr. Dilip Singh, Sanjay Mishra and Rahul M Jamdale.

I.D.R. No. 02/2015.

Exh. No.20.

(11) The act of the first party company caused to these employees amounts illegal termination of their services without holding enquiry and proof of allegations alleged against these workers. Hence, I hold that the second party workmen are entitled for benefits of their illegal termination. The allegations leveled are about the beating of Mr. Sanjay Yewale though does not prove however reinstatement will not be proper as the relation between the employees and the company as strain. The second party workmen claimed the termination benefits as under:

Sr. No.	Name of the employees	Amount claimed
1.	Shri Dilip Singh	2,44,800/-
2.	Shri Sanjay Mishra	2,16,936/-
3.	Shri Rahul M. Jamdade	2,31,840/-

(12) The second party workmen are entitled for the above benefits alongwith interest @ 12% p.a. from the date of the reference i.e. 20.08.2015 till its realization. Accordingly answering points No. 1 to 3 pass following order:-

ORDER

- (i). The reference is allowed.
- (ii) The first party company is hereby directed to pay amount of Rs.2,44,800/- to Shri Dilip Singh, Rs. 2,16,936/- to Shri Sanjay Mishra and Rs. 2,31,840/- to Shri Rahul M. Jamdade alongwith interest @ 12% p.a. from 20.08.2015 till its realization.
- (iii) The award be forwarded to Government for publication in Government Gazette.

Daman
Dated: 08/12/2016.

Sd/-
(Smt. S.S. Nagur)
Labour Judge,
Daman.

IN THE COURT OF THE LABOUR JUDGE, DAMAN

(Before Smt. S.S. Nagur, Labour Judge, Daman.)

Industrial Dispute Reference No.02 of 2015

EXHIBIT – 21.

1) **M/s Perfect Filaments Pvt. Ltd.,**
 Plot No. 285/1,
 Panchal Udhyog Nagar,
 Bhimpore, Nani Daman. }
 **Respondant/
 First Party**

V/s.
 1) **Sanjay Mishra**
 2) **Dilip Singh**
 3) **Rahul M. Jamdade**
 Govindbhai ki Chawl,
 Room No.11, Amaliya,
 Near Dahyabhai ki Building,
 Dabhel, Nani Daman. }
**Claimant/
 Second Party**

Without Reply of the Respondent/First Party Company.
 Advocate Shri R.D. Jadhav, Secretary of the Claimant/Second Party.

A W A R D

1] This is the reference made vide letter No.LE/LI/DMN/FACT-4(7)/2005/55 made by the Deputy Secretary (Labour & Emp.), Daman under Section 12 (5) R/w Section 10 (1) (c) of the Industrial Disputes Act in respect of an industrial dispute between M/s Perfect filaments Pvt. Ltd and its workman Shri Sanjay Mishra, Shri Dilip Singh and Rahul M. Jamdade in respect of matter (3) Discharge of dismissal of workmen including re-instatement of, or grant of relief to, workmen wrongfully dismissed.

2] The second party filed the statement of claim at Exh.3. The respondent company has not file reply.

3] The Secretary of Union Shri R.D. Jadhav for the Second Party, appeared in this reference. One Person Ramesh Singh appeared for the First Party Company.

4] After evidence of Second Party, and as per Judgment and order following is the award.

A W A R D

- (i) The reference is allowed.
- (ii) The first Party company is hereby directed to pay Rs. 2,44,800/-to Shri. Dilip Singh, Rs. 2,16,936/- to Shri. Sanjay Mishra and Rs. 2,31,840/- to Shri. Rahul M. Jamdade alongwith interest @ 12% p.a. from 20.08.2015 till its realization.
- (iii) The award be forwarded to Government for publication in Government Gazette.

Daman
 Dated: 12/01/2017.

Sd/-
(Smt. S.S. Nagur)
 Labour Judge,
 Daman.

UTDD010003072017



Received on : 15/04/2017
Registered on : 15/04/2017
Decided on : 06/02/2026
Duration : 08 09 22
YY MM DD

IN THE COURT OF THE LABOUR JUDGE, At DAMAN
(Presided over by Pranita P. Bharsakade-Wagh)

Civil Misc. Application No. 77/2017.

M/s Perfect Filaments Pvt. Ltd.

.....First Party/ Applicant

v/s.

- 1) Shri Sanjay Mishra,
- 2) Shri Dilip Singh,
- 3) Shri Rahul M. Jamdade,

R/o Govindbhai ki Chawl,
Room No.11, Amaliya
Near Dahyabhai ki Building
Dabhel, Nani Daman

.....Second Party/ Respondents.

Application for recalling the Judgement/Order dated 08.12.2016 in IDR No. 2/2015.

Appearance: Mr. Pramod Kumar Jadia, Representative for the First Party/Applicant.

Advocate Naveen Sharma and Adv. Nruti Rathod for the second party/respondents.

ORDER
(Delivered on 06/02/2026)

This is an application filed by Mr. Rajendra Gupta, Managing Director of the first party company/applicant M/s. Perfect Filaments Pvt. Ltd. for recalling the judgment and order dated 08.12.2016 passed in IDR No. 02/2015. It is submitted that the first party/applicant did not receive any summons from the Court. The bailiff report dated 01.02.2015 shows that company got closed. The summons were issued on the address of Panchal Udyog Nagar. However the first party/applicant's unit was located there a long back and it was totally burnt on 02.12.2011. Therefore, now a days nobody is available there. It has been found in the case file of IDR No. 2/2015 that the second party/respondents had submitted computer generated post department's report stating that registered article has been delivered to the first party/applicant. However, the report does not show who has received the said article in the establishment of first party/applicant. When on the same address the Court's Bailiff found the company closed, then how the postal department person can find an authorized person to receive the article.? Therefore, there is no conclusive evidence is available on the Court's record to show that the notice sent by the second party/respondents was actually received by the first party/applicant, as the address was wrong. Therefore, the first party/applicant did not receive any notice about the proceedings of IDR No. 2/2015 and therefore was not aware about it.

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2) It is further submitted that one Shri Ramesh Singh seems to have appeared once before the Court on behalf of the first party/applicant. However, the said person was not authorized to represent the first party/applicant in the said proceeding. The first party/applicant did not have any information about the said proceeding and therefore it was unable to appear before the Court. Therefore, the Court was pleased to pass a judgment dated 08.12.2016 in the said reference. Hence, the first party/applicant has prayed that it desires to present all the disputed facts and to bring the truth before the Court. It is also submitted that the award passed by the Court is not yet published in the official gazette of Daman and Diu Administration. Hence, the judgment/order has not become enforceable under section 17 of the Industrial Disputes Act, 1947. Therefore, this Court still has jurisdiction to try and entertain the dispute. Hence the first party/applicant has prayed to set aside the judgment and award dated 08.12.2016 and allow to first party/applicant to file reply in the said IDR No. 02/2015.

3) Reply of the second party workmen/respondents Mr. Sanjay Mishra, Mr. Dilip Singh and Mr. Rahul M. Jamdade was called on the application. They appeared and filed their reply vide Exh. 5. They have submitted that the final award is already delivered by the Court. Therefore, this Court has no jurisdiction to recall the matter. Rule 10-B(9) of the Industrial Disputes (Central) Rules, 1957 only gives power to recall as order for ex- parte proceeding before the submission of the award. Therefore, this application is not maintainable and deserves to be dismissed with costs. It is further submitted that the second party/respondents were employed in Unit No. 3 of the first party company/applicant at Plot No. 285/1, Bhimpore. The fire, as referred by the first party company/applicant, took place in Unit No. 1 of the first party company/applicant and did not affect Unit No. 3 which is never closed down and is still running to date. Unit No. 1 is situated at Plot No. 96-A/95/94 Bhimpore. Even the first party/applicant admits that he received the letter from Karmachari Kamgar Union dated 17.02.2017. The said letter was addressed to Plot No. 285/1 Bhimpore i.e. the very same address as in the cause title and on which all earlier service was sent and it was in response to the earlier notice sent, Mr. Ramesh Singh appeared on behalf of the company on 16.01.2016 which is reflected in the roznama. Mr. Ramesh Singh was an officer in the H.R. Department of the company. The company claimed that it does not authorize him to appear is not only false but an after thought to try to cover up its deliberate non attendance of the matter. As the final award has been passed, the first party/applicant, with malafide intention and to avoid implementation of the award, has come with a false and concocted story even to the extend of claiming that its HR representative who appeared was not authorized. Hence, for all these reasons, the second party/respondents have prayed to dismiss the application with costs.

4) Following points arise for my determination and I record findings thereon with reasons below:

Sr.No.	Points	Findings
1)	Whether the first party/applicant has: shown any sufficient cause for their non appearance in the proceeding of IDR No. 2/2015?	No.
2)	What order?	Application is rejected with costs.

REASONS

Point No. 1 and 2:-

5) In order to prove the contentions, the first party/applicant filed affidavit in lieu of examination-in-chief of Shashikant Satyanarayan Sharma, General Manager (Commercial) and Arman Tarzan Khan, Executive H.R. of the first party company/applicant. Mr. Shashikant Sharma has deposed that they came to know about the Industrial Dispute Reference No. 02/2015 only on 17.02.2017 when the second party union vide its letter dated 17.02.2017 informed the company about the said award and after receiving the information they deputed their representative to inspect the case file to find out the details. On inspection of the case file, the first party/applicant found that no summons was served upon the first party/applicant. The Court Bailiff submitted its report as “nobody was found on the given address”. He has reiterated the fact that the company’s unit no. 1 located at Plot No. 285/1, Panchal Udhyog Nagar, Bhimpore, Nani Daman had got totally burnt on 02.12.2011 therefore there is no operation at that unit and nobody is available there. There are three other units in operation. Unit No. 2 is located at Plot No. 70, Panchal Udyog Nagar, Bhimpore, Daman, Unit No. 3 is located at Plot No. 285/1, Bhimpore, Daman and Unit No. 4 of the company is located at Survey No. 287/5, Bhimpore, Daman. The address given by the second party/respondents as Plot No. 285/1, Panchal Udyog Nagar, Bhimpore, Nani Daman was erroneous. It should have been Plot No. 285/1, Bhimpore, Daman. The company does not have any unit at Plot No. 285/1, Panchal Udyog Nagar, Bhimpore. Therefore, the company did not receive any notice about the proceeding of the IDR No. 02/2015 and therefore was not aware about it. He further deposed that Mr. Ramesh Singh seems to have once appeared before the Court on behalf of the company. However, he was not authorized by company to represent sent it in the said proceeding. He has also never informed the company about it. Mr. Arman Khan has also deposed on the same line of Mr. Shashikant Sharma regarding the address of all four units of the company.

6) Following aspects transpire from the evidence of Mr. Shashikant Sharma:-

- (1) The first party/applicant received the letter from the union in February, 2017 and therefore they have filed this application.
- (2) Denial regarding the receipt of notice of IDR No. 2/2015.
- (3) The distance between Unit No. 1 and Unit No. 3 might be approximately 01 k.m. and all the letters are received by the security person of the company.
- (4) He does not know how Ramesh Singh got knowledge of the reference and appeared in the Court.

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- (5) He is unable to tell by which authority Mr. Ramesh Singh appeared in the Court and is also not able to tell whether Mr. Ramesh Singh was on leave on that day i.e. 16.01.2016, when his appearance is shown in the roznama of the IDR proceeding No. 02/2015.
- (6) He is unable to tell whether the company has received the letter at Unit-3 which is addressed to Unit-1. The witness is unable to tell whether the letter dated 17.02.2017 was issued by the union to the company on the address of M/s. Perfect Filaments Pvt. Ltd., Plot No. 285/1, Panchal Udyog Nagar, Bhimpore, Nani Daman.
- 7) The evidence of witness Arman Khan reveals that he is working with the first party/applicant since September, 2017 in Unit No.3 of the company. His evidence also transpires that he does not know whether the Panchal Udyog Nagar comes within the village Bhimpore. The first party/applicant has closed its evidence vide pursis at Exh. 14, after examining these two witnesses. The second party/respondents closed its evidence vide closing pursis at Exh. 15.
- 8) Heard both the sides. Perused the written argument filed by both the sides vide Exh. 29 and 30 respectively.
- 9) The applicant has come with two fold grievances. One is that the company did not receive the notice and second is that the person namely Ramesh Singh was not authorized by the first party company to appear before the Court in the said IDR proceeding. Regarding the first grievance, it has to be seen that the then Court in its judgment/order in IDR No. 2/2015 has clearly mentioned that the first party company/applicant received the notice. The second party/respondents have also filed the tracking report in the said proceeding. However, it is the contention of the learned representative Mr. PK. Jadia for the first party/applicant that the address Plot No. 285/1 is not situated in Panchal Nagar. However, the letter issued by the second party/respondents vide Exh. 9 has been received on the same address and it can be seen from the evidence of the authorized person Shashikant Sharma that the company receives the letters issued on the address of the said unit. Therefore, in my view, the learned Advocate for the second party/respondents has rightly argued that inspite of receiving the notice, the first party/applicant has raised the said grievance just to evade the due process of law and to harass the second party workmen/respondents.
- 10) Regarding the second grievance, it needs to be mentioned here that admittedly, Mr. Ramesh Singh is an employee of the first party company/applicant. The applicant states that Mr. Ramesh Singh was not authorized to appear in the said IDR proceeding. However, the first party company has neither examined the said person to prove the fact that they did not authorize the said person to appear on behalf of the company nor assigned any reason for his non examination in the present proceeding. Without any reason, nobody can appear on behalf of the company by leaving his job and without giving any intimation to the company. So also nobody can appear without having any knowledge about the proceeding. Moreover, the Court would not have unnecessarily recorded the name of the said person in

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the roznama without his presence before the Court. Presence of Mr. Ramesh Singh in the IDR proceeding shows that the first party company was having every knowledge about the said proceeding pending before the Court. All these factors leads to draw inference that the company had authorized Mr. Ramesh Singh to represent the first party company.

11) The witness Shashikant Sharma has deposed that he had represented the company before the Conciliation Officer. It goes to show that company was very well aware of the dispute between the company and the workmen and about the reference made to the Court. Therefore, all these facts and circumstances show that inspite of having knowledge about the IDR proceeding and appearing in the said proceeding, the company deliberately did not file reply and let the matter proceed further without their reply with a view that they can file an application for setting aside the ex- parte order in a casual manner. The parties herein are workmen on one side and the company, having authoritative position in every manner, at the other side. The conduct of the first party/ applicant shows that this application has been filed just to deprive the workmen from the relief granted in their favour and just to avoid the compliance of the order passed in IDR No. 02/2015. This application is nothing but abuse of process of law. Hence, the abuse of process of law of filing such type of sham proceeding needs to be rejected by imposing heavy costs and at the same time the workmen needs to be compensated for the harassment and delay caused by the first party/applicant for compliance of the relief which is granted in their favour vide the Award passed in IDR No. 2/2015 on 08.12.2016. Accordingly, I answer point No. 1 in the negative and in answer to point No. 2, I pass the following order:

ORDER

- 1) The application is rejected with costs of Rs. 90,000/-.
- 2) The costs of Rs. 90,000/- be paid to the workmen (Rs.30,000/- each).
- 3) The order passed in IDR No. 02/2015 be sent to the Labour Commissioner for publication in the Official Gazette as per section 17 of the Industrial Disputes Act, 1947.

Date: 06/02/2026
Daman

Sd/-
(Pranita P. Bharsakade-Wagh)
Labour Judge, Daman.
