Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7358 OF 2002

Gujarat Agricultural University …Appellants

Versus

All Gujarat Kamdar Karmachari Union …Respondent

With

Civil Appeal Nos. 7427-7490/2002

JUDGEMENT

R.M. Lodha, J.

This batch of 64 appeals is directed against the judgment passed by the High Court of Gujarat on March 22, 2002 whereby the Division Bench of that Court confirmed the award dated August 20, 1997 passed by Industrial Tribunal, Gujarat, Ahmedabad. Since the judgment as well as the questions

raised herein are common, these appeals are disposed of by a common judgment.

2. Gujarat Agricultural University, appellant, (hereinafter referred to as, "Employer"), is an educational institution fully aided by the Government of Gujarat. It is engaged in the educational activities, particularly, in agriculture and allied sciences and humanities in the State of Gujarat. It has various agriculture Research Stations at different places in the State of Gujarat. In discharge of its duties and functions under the Gujarat Agriculture University Act, 1969, the employer engages daily rated labourers for various activities relating to agriculture research farms, fisheries, dairies, veterinary and other allied sciences.

3. On August 22, 1980 during the pendency of the conciliation proceedings (Conciliation Case No. IDC 480/80), a settlement under Section 12 read with Section 2(p) of the Industrial Disputes Act, 1947 (for short, "ID Act") was entered into between the representative of the employer and the representatives of the workmen.

4. On July 27, 1983, Banaskantha General Workers Union gave a notice to the employer under Section 19(2) of the ID Act

for termination of the settlement as the workmen intended to submit their demands afresh. However, no fresh settlement took place between the employer and the workmen.

5. With regard to the daily rated labourers working in Dantiwada Zone, it appears that a dispute arose about regularization of their services which was ultimately referred for industrial adjudication at the instance of the respondent, All Gujarat Kamdar Karmachari Union, (hereinafter referred to as, "Union"), vide Reference (IT) No. 463/91 before the Industrial Tribunal, Ahmedabad. The said reference is still pending before that Tribunal.

6. Somewhere in the year 1991, the Government of Gujarat issued notification by which 2nd and 4th Saturday were declared holidays. The employer vide its circular dated October 3, 1991 also declared 2nd and 4th Saturday of every month holidays and 11 days Diwali holidays. Accordingly, the daily rated labourers engaged by the employer were not provided any work during these holidays.

7. The daily rated labourers (64 in number) working in the Dantiwada Zone felt aggrieved by the change of their service conditions during the pendency of the Reference (IT No.

463/91) without following the prescribed procedure and, accordingly, filed separate complaints under Section 33A of the ID Act alleging the breach of Section 33. These workmen prayed for declaration that the action of the employer in forcing leave on 2nd and 4th Saturday and 11 days during Diwali without pay was illegal. They prayed that the employer be ordered to pay wages in lieu of all such forced holidays/leave granted to them.

8. The employer contested these complaints. In their reply they raised a preliminary objection about the maintainability of the complaints on the ground that the demands made in the complaints have no nexus or connection with the pending reference and, therefore, there is no breach of Section 33. The employer set up the plea that being fully aided government institution, it followed the rules of the State government and declared 2nd and 4th Saturday and 11 days holidays during Diwali. The employer asserted that there is no breach of Section 9A of the ID Act nor there is any change in the service conditions of the concerned workmen. The employer also set up the plea in its reply that when institution remains completely closed, it would not be possible to call the workmen for work

and, therefore, the question of paying wages, for the day on which work is not done, does not arise.

9. The parties led oral evidence and also produced documentary evidence in support of their respective case.

10. After hearing the parties, the Industrial Tribunal passed the award, operative part whereof, reads thus:

> "It is hereby ordered that the opponents shall pay wages to the complainants herein in lieu of additional leaves/holidays granted to the complainants in excess of weekly off i.e. one day's leave once in a week on and from May 1991 by putting/marking their presence on those days.
>
> That the action of the opponents in granting 11 days leave without pay in Diwali days to the complainants, if granted, is hereby declared illegal and opponents are hereby ordered to pay wages in lieu of all such holidays/leave granted to the complainants treating them as present.
>
> It is hereby further ordered that hence forth the opponents shall not grant leave without pay for more than one day in a week to the complainants herein.
>
> Benefit of this order will be given to those complainants only who have been fulfilling the terms and conditions of the settlement dated 22.8.1980.
>
> Opponents shall pay to each complainant individually an amount of Rs. 250.00 towards costs of the complaints of the aforesaid complaints."

11. The award of the Industrial Tribunal came to be challenged by the employer by filing Special Civil applications before the High Court. The Single Judge dismissed Special Civil Applications. Dissatisfied thereby, the employer preferred

LPAs but without any success and hence, these appeals by special leave.

12. Mr. P.S. Patwalia, learned Senior Counsel for the appellant submitted :

(i) that daily wagers do not hold any post and, therefore, there are no conditions of service for such employees; they are engaged as and when there is requirement of work and they are paid wages for the work done by them and the question of change in conditions of service of daily rated employees does not arise. Reliance is placed on *Secretary, State of Karnataka and Others vs. Umadevi(3) and Others*[1] *and Lily Kurian vs. Sr. Lawina and Others*[2].

(ii) that even if it be assumed that the settlement dated August 22, 1980 provides for conditions of service of daily rated employees covered thereby, the settlement had come to an end on expiry of three years and as a matter of fact, a notice of termination of settlement dated July 23, 1983 was given by Banaskantha General Works Union. In view of the said notice intending to terminate the settlement dated August 22, 1980, on the expiry of its tenure, the settlement has come to an end on October 21, 1983 and, therefore, the circular dated October 3, 1991 declaring the 2nd and 4th Saturday of every month and 11 Diwali holidays cannot be made subject to the said settlement.

(iii) that the complaints filed by the workmen were not maintainable under Section 33A as there was no breach of Section 33 inasmuch as the alteration in the alleged conditions of service was not related to nor has any connection with industrial dispute pending adjudication before the Industrial Tribunal.

(iv) that in any case, no wages should have been ordered to be paid to the workmen for the days they did not work. Reliance is placed on *Union of India and Others vs.*

[1] *(2006)4 SCC 1*
[2] 1979 (1) S.L.R. 26

Rajendra Kumar Sharma[3] *and U.P. State Brassware Corpn. Ltd. And Another vs. Uday Narain Pandey*[4].

13. Mr. G.K. Parwar, President of the union strongly supported the impugned judgment and relied upon the following decisions of this court, viz. *Life Insurance Corporation of India vs. D.J. Bahadur and Others*[5], *Calcutta Electric Supply Corporation Ltd. Vs. Calcutta Electric Supply Workers' Union and Others*[6], *Bareilly Holdings Ltd. Vs. Workmen*[7], *Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. Vs. Ram Gopal Sharma and Others*[8] *and M/s Lokmat Newspapers Pvt. Ltd. Vs. Shankarprasad*[9].

14. We may immediately refer to the observations made in paragraph 48 of the judgment of this Court in case of Umadevi upon which reliance was placed by Mr. P.S. Patwalia, learned Senior Counsel which read thus:

> "There is no fundamental right in those who have been employed on daily wages or temporarily or on contractual basis, to claim that they have a right to be absorbed in service. As has been held by this Court, they cannot be said to be holders of a post, since, a regular appointment could be made only by making

[3] 1993 Supp (2) SCC 366
[4] (2006) 1 SCC 479
[5] (1981) 1 SCC 315
[6] (1994) 6 SCC 548
[7] (1979) 3 SCC 257
[8] 2002-I-LLJ SC 280
[9] 1999 (6) Supreme 104

appointments consistent with the requirements of Articles 14 and 16 of the Constitution."

15. In Lily Kurian this Court said :

> **"13.** The expression "conditions of service" covers a wide range, as explained by the Privy Council in *N.W.F. Province* v. *Suraj Narain [AIR 1949 PC 112]*, which was approved by this Court in *State of U.P.* v. *Babu Ram [AIR 1961 SC 751].* These decisions and also a later decision of this Court in *State of M.P.* v. *Shardul Singh [(1970) 1 SCC 108]* have made it clear that the expression "conditions of service" includes everything from the stage of appointment to the stage of termination of service and even beyond, and relates to matters pertaining to disciplinary action. Thus, the expression "conditions of services" as explained in the decisions of the Privy Council and of this Court includes the power to take disciplinary action. The rules regarding these matters are contained in Chapter 57 of the ordinances. The management of a private college under Ordinance 33(2) is constituted the appointing and the disciplinary authority in respect of imposition of punishment. In the course of any disciplinary proceeding, a right of appeal before the Vice-Chancellor is given to a teacher dismissed from service under Ordinance 33(4) of the Ordinances. The High Court thus rightly held that the right of appeal conferred by Ordinance 33(4) forms part of the "conditions of service" and, therefore, is valid."

16. It is true that daily wagers are not the holders of a post but the expression 'conditions of service' occurring in Section 33(1)(a) is not restricted to the holders of post. The expression, 'conditions of service' is of wide range and relates to the workmen who may be temporary, adhoc, daily rated, permanent, semi-permanent or otherwise. What Section 33

provides is that, inter alia, during the pendency of any proceeding before the Labour Court or Industrial Tribunal in respect of an industrial dispute, the employer shall not in regard to the matter connected with the dispute, change conditions of service prejudicially to such workmen. We find no merit in the contention that since daily rated employers do not hold any post and, therefore, there are no conditions of service for such employees.

17. Insofar as the present case is concerned, the settlement dated August 22, 1980 provides that those workmen who have worked for 200 days in each year continuously for last three years prior to July 1, 1980 and those workmen who have worked for 240 days continuously for a period of three years after July 1980 shall be treated as permanent. It further provides that instead of taking work for 9 hours in a day for five days in a week, work shall be taken from them for 8 hours in a day for six days in a week. The settlement provides for one weekly off. The relevant portion of the settlement reads thus :

> "2. On and from 1.7.1980, daily rated workmen who are made permanent, shall be paid Rs. 6.00 per day instead of Rs.5.50 per day. This rate of daily wages also includes dearness allowance and one leave once a week (one weekly off).

3. Those workmen who have worked in the University for 200 days in a year continuously for a period of last three years prior to 1.7.1980, shall be treated as permanent workmen. Thereafter, in the month of July in each year, as per the following norms they shall be made permanent:

> Those workmen who have worked for 200 days (presence of 200 days) in each year continuously for last three years prior to 1.7.1980 and those workmen who have worked for 240 days in each year continuously for a period of three years after 1.7.1980, shall be treated as permanent and after 1.7.1980 instead of taking work from them for 6 hours for one day and for 9 hours in a day for five days in a week, work shall be taken from them for 8 hours in a day for six days in a week."

18. Surely, the aforenoticed provision in the settlement is nothing but conditions of service of the concerned workmen.

19. The question now to be considered is whether the settlement dated August 22, 1980 became inoperative on expiry of its tenure for which a notice was given by Banaskantha General Workers Union. The answer has to be in the negative. In the case of *Life Insurance Corporation of India vs. D.J. Bahadur and Others*[5], this Court held:

> **"34.** The core question that first falls for consideration is as to whether the Settlements of 1974 are still in force. There are three stages or phases with different legal effects in the life of an award or settlement. There is a specific, period contractually or statutorily fixed as the period of operation. Thereafter, the award or settlement does not become non est but continues to be binding. This is the second chapter of legal

> efficacy but qualitatively different as we will presently show. Then comes the last phase. If notice of intention to terminate is given under Section 19(2) or 19(6) then the third stage opens where the award or the settlement does survive and is in force between the parties as a contract which has superseded the earlier contract and subsists until a new award or negotiated settlement takes its place. Like nature, law abhors a vacuum and even on the notice of termination under Section 19(2) or (6) the sequence and consequence cannot be just void but a continuance of the earlier terms, but with liberty to both sides to raise disputes, negotiate settlements or seek a reference and award. Until such a new contract or award replaces the previous one, the former settlement or award will regulate the relations between the parties. Such is the understanding of industrial law at least for 30 years as precedents of the High Courts and of this Court bear testimony. To hold to the contrary is to invite industrial chaos by an interpretation of the ID Act whose primary purpose is to obviate such a situation and to provide for industrial peace. To distil from the provisions of Section 19 a conclusion diametrically opposite of the objective, intendment and effect of the section is an interpretative stultification of the statutory ethos and purpose. Industrial law frowns upon a lawless void and under general law the contract of service created by an award or settlement lives so long as a new lawful contract is brought into being. To argue otherwise is to frustrate the rule of law. If law is a means to an end — order in society — can it commit functional hara-kiri by leaving a conflict situation to lawless void?"

20. It is an admitted position that no new settlement has been entered between the employer and the workmen subsequently nor any award has replaced the settlement dated August 22, 1980. In this view of the matter, it has to be held that the settlement dated August 22, 1980 continues to regulate

the conditions of service of the workmen covered thereby. The contract of service or the conditions of service provided in the settlement holds the field until new lawful settlement is brought into being. As a matter of fact, the employer was well aware of this legal position and, therefore, the daily rated labourers governed by the settlement were continued to be given only a day off in a week until the change was effected vide circular dated October 3, 1991. Thus, the Industrial Tribunal as well as the High Court cannot be said to have erred in relying upon the settlement dated August 22, 1980.

21. In the case of *Bhavnagar Municipality vs. Alibhai Karimbhai and Others*[10] , this Court held that the following conditions have to be followed in order to invoke the conditions of Section 33:

> (a) there has to be a proceeding in respect of an Industrial Dispute pending before the Tribunal,
>
> (b) the alteration has to be in the conditions of service which are applicable immediately before the commencement of the tribunal proceedings,
>
> (c) the alteration in the conditions of service has to be related to a matter pending before the tribunal,
>
> (d) the workmen whose conditions of service are altered must be related to the matter,

[10] AIR 1977 SC 1229

(e) the alteration of conditions of service must be prejudicial to the workmen.

22. In *Blue Star Employees Union vs. Ex Off. Principal Secy. to Govt. and Another*[11], this Court held thus:

> **" 5.** Thus, the contravention of the provisions of Section 33 of the Act is the foundation for exercise of the power under Section 33 (*sic* 33-A) of the Act. If this issue is answered against the employee, nothing further survives for consideration or action by the Tribunal under Section 33 (*sic* 33-A) of the Act. In other words, an application under Section 33-A of the Act without proof of contravention of Section 33 of the Act would be incompetent. This is the view expressed by this Court in several decisions including the decisions in *Punjab National Bank Ltd.* v. *Workmen,[AIR 1960 SC 160]*, *Punjab Beverages (P) Ltd*. v. *Suresh Chand [(1978) 2 SCC 144]*, *Syndicate Bank Ltd.* v. *K. Ramanath V. Bhat [AIR 1968 SC 231]*. Indeed this Court in *Orissa Cement Ltd.* v. *Workmen [(1960) 2 LLJ 91 (SC)]* while dealing with the identical provisions as contained in Sections 33 and 33-A of the Act in a complaint made under Section 23 of the Industrial Disputes (Appellate Tribunal) Act, 1950 examined this contention that the finding of the Appellate Tribunal in the proceedings instituted under Section 23 of the Appellate Tribunal Act amounted to res judicata and it was not open to the Tribunal to consider the validity or the propriety of the impugned order of discharge in the reference. The Tribunal in that case had held that on the earlier occasion the Appellate Tribunal had found that there was no contravention of Section 22 and that was really decisive of the proceedings and held that the alternative finding made in the said proceedings on the merits was no more than obiter and cannot be pleaded in support of the bar of res judicata. This Court was not prepared to hold that this view is erroneous and, therefore, the Tribunal was justified in dealing with the merits of the dispute."

[11] (2000) 8 SCC 94

23. It must be held, as has been consistently said, that the foundation for exercise of the power in the proceedings under Section 33A is a breach of the provisions of Section 33 of the ID Act.

24. We now turn to the next question, whether the alteration in the conditions of service has any connection or nexus with the industrial dispute pending before the Industrial Tribunal, Ahmedabad.

25. The industrial dispute referred for adjudication at the instance of the union before the Industrial Tribunal, Ahmedabad is in respect of regularization of daily rated labourers working in, Dantiwada Zone. That all these daily rated labourers are covered by the settlement dated August 22, 1980 does not seem to be in dispute. The Industrial Tribunal while dealing with the question whether the alteration in the service conditions has any connection with the pending industrial dispute observed:

> "….. It is at present not possible to say that the workmen are directly connected with the dispute as well as with the subject matter of the reference. But if it is viewed with large angle, the said complaint is connected with the pending reference because subject matter of the reference is whether all the workmen should be treated permanent and accordingly be given benefits attached to the permanent service or not? This also include working hours and holidays etc. of the employment of the

> workmen. If workmen are made permanent, they will also get leave benefits and other rights etc. given to the permanent workmen. Further, it is the contention of the complainant that under the settlement, it was agreed to provide work for six days, but instead, more than one leave are given. If this is permitted to be so done, that would straightway and simply mean that by ignoring the seniority of the workmen and by taking work from them in some other manner, leave/holidays of more than one day in a week are being given to the workmen as a result of which the total working days of the workmen will be reduced to such an extent that as and when time of disposing of the reference on merits would come, though the workmen would legally be entitled to get work for six days in a week, their total working days would be reduced in such an extent that that would also affect the case of the workmen to make them permanent and though the workmen are entitled, opponent would submit in that event that workmen are working for very less number of days and, therefore, they should not be made permanent. It was agreed to give work for six days in a week under the settlement arrived at under Section 2(P) of the ID Act and the same is part and parcel of the service conditions. Thus, subject matter of the complaint is connected with the subject matter of the reference."

26. Mr. P.S. Patwalia, learned Senior Counsel would submit that the Industrial Tribunal was not very sure that the complainants were directly connected with the subject matter of the reference and that being the position, one of the fundamental conditions of Section 33 that the alteration in the conditions of service has to be related to a matter pending before the Tribunal is not satisfied. We are afraid that this is not a fair reading of the finding recorded by the Industrial Tribunal. Moreover, we have carefully examined the industrial

dispute referred vide Reference (IT) No. 463/91 which is pending before the Industrial Tribunal, Ahmedabad and we find that change in conditions of service is in regard to a matter which is not unconnected with the pending dispute. We find ourselves in agreement with the view of the Division Bench of the High Court in this regard:

> " …. Therefore, it would be crucial to examine whether any alteration in the conditions of service was effected by the appellant and, if the answer is positive, whether it was in regard to a matter connected with the dispute. It is seen that the main dispute and reference during the pendency of which the conditions of service were allegedly changed was for regularization to secure the benefits of permanency in service. It was also the case of the complainants that they had completed 240 days or more days of work in each of the three preceding years of their service and that on that basis they were entitled to be made permanent. Pending the adjudication of such dispute and demand, increase in the number of unpaid holidays and resultant reduction of the working days would necessarily be a matter connected with the dispute insofar as not only the record of number of days worked would be altered but there would be an effective reduction in the total wages to which the workman concerned would be actually entitled. It needs no elaboration that the demand and dispute for regularization in service based on continued employment under the employer arises to prevent sudden discontinuation and to claim benefits at par with regular employees so as to achieve stability and an equitable standard of living. While struggling to achieve that goal, if forced unemployment were thrust upon a labourer in the name of additional holidays, it cannot be said that the change in condition of service was in regard to a matter which was not connected with the dispute…."

27. Thus, there is no flaw in the view of the Industrial Tribunal as well as of the High Court that the settlement dated August 22, 1980 is still in force and binding on the employer and the action of the employer in giving leave for more than one day in a week after May, 1991 and 11 days festival leave amounts to changing the conditions of service of the daily rated labourers who are covered by the settlement dated August 22, 1980 without following the prescribed procedure and, therefore, illegal.

28. Having held so, the question still remains to be answered is : whether the Industrial Tribunal was justified in exercise of its judicial discretion in directing the employer to pay wages to the complainants in excess of a weekly off by marking their presence on those days and also to pay wages for Diwali Holidays by marking them present.

29. One of the principles well known in the matters of service is that if a person has worked, he must be paid and if he has not worked, he should not be paid. This is expressed in doctrine, 'no work, no pay'. Another oft-repeated principle in service jurisprudence is that if an employer has wrongly denied an employee his due then in that case he should be given full

monetary benefits. But none of these principles is absolute nor can these principles be applied as a rule of thumb. Of late, the Courts have followed the principle that a person is not entitled to get something only because it would be lawful to do so.

30. In *U.P. State Brassware Corpn. Ltd. and Another vs. Uday Narain Pandey*[12], the question for consideration before this Court was whether a direction to pay back wages consequent upon a declaration that the workmen has been retrenched in violation of Section 6-N of the U.P. Industrial Disputes Act (equivalent to Section 25 of the ID Act) as a rule was proper exercise of discretion. It was held:

> "**41.** The Industrial Courts while adjudicating on disputes between the management and the workmen, therefore, must take such decisions which would be in consonance with the purpose the law seeks to achieve. When justice is the buzzword in the matter of adjudication under the Industrial Disputes Act, it would be wholly improper on the part of the superior courts to make them apply the cold letter of the statutes to act mechanically. Rendition of justice would bring within its purview giving a person what is due to him and not what can be given to him in law.
>
> **42.** A person is not entitled to get something only because it would be lawful to do so. If that principle is applied, the functions of an Industrial Court shall lose much of their significance.
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> **43.** The changes brought about by the subsequent decisions of this Court, probably having regard to the changes in the policy decisions of the Government in the wake of prevailing market economy, globalisation, privatisation and outsourcing, is evident.

> **44. ....**
> **45.** The Court, therefore, emphasised that while granting relief, application of mind on the part of the Industrial Court is imperative. Payment of full back wages, therefore, cannot be the natural consequence."

31. In the matters of termination of workman in violation of Section 25F of the ID Act, as regards the consequential relief, in the recent judgments, this Court has consistently taken the view that relief by way of reinstatement and back wages is not automatic. In a recent judgment delivered by us on July 14, 2009 in the case of *Jagbir Singh vs. Haryana State Agriculture Marketing Board & Anr. (Civil Appeal No.4334/09 (@ out of SLP© No. 987/2009),* we considered *U.P. State Brassware Corpn. Ltd.vs. Uday Narain Panday*[12] and few other decisions of this Court viz., *Uttaranchal Forest Development Corpn. V. M.C. Josh*[13], *State of M.P. & Ors. v. Lalit Kumar Verma*[14], *M.P. Administration v. Tribhuwan*[15], *Sita Ram v. Moti Lal Nehru Farmers Training Institute*[16], *Ghaziabad Development Authority & Anr. v.*

[12] (2006) 1 SCC 479
[13] (2007) 9 SCC 353
[14] (2007) 1 SCC 575
[15] (2007) 9 SCC 748
[16] (2008) 5 SCC 75

Ashok Kumar & Anr.[17] *and Mahboob Deepak v. Nagar Panchayat, Gajraula*[18] *and held:*

> "15. It would be, thus, seen that by catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and a permanent employee. Therefore, the view of the High Court that the Labour Court erred in granting reinstatement and back wages in the facts and circumstances of the present case cannot be said to suffer from any legal flaw. However, in our view, the High Court erred in not awarding compensation to the appellant while upsetting the award of reinstatement and back wages. As a matter of fact, in all the judgments of this Court referred to and relied upon by the High Court while upsetting the award of reinstatement and back wages, this Court has awarded compensation."

32. Although the aforesaid observations have been made in the context of the illegal retrenchment of the workmen in violation of Section 25F of the ID Act, but, in our considered view, in a case such as present one where no work was taken from the daily rated employees on 2nd and 4th Saturday and for 11 days' during Diwali festival after May, 1991, the payment of full wages for the aforesaid period should not follow as a matter

[17] (2008) 4 SCC 261
[18] (2008) 1 SCC 575

of course. It is true that these daily rated employees could not work on those days because of the wrongful act of the employer but at the same time it cannot be overlooked that change in the working days was brought about by the employer because the Government of Gujarat had declared 2nd and 4th Saturday as holidays and also festival holidays for its employees. The employer being fully aided institution had to follow the suit and it issued circular on the same lines to bring working days pattern on par with the government departments. The action of the employer insofar as daily rated employees governed by the settlement dated August 22, 1980 is concerned was wrong as they did not follow the prescribed procedure before bringing out the change but nevertheless the said action cannot be said to be actuated with ulterior motive. In these peculiar circumstances, a just balance needs to be struck and the principle of 'no work, no pay' does not deserve to be given a complete go-by. In our thoughtful consideration, the interest of justice would be subserved if the employer is directed to pay 50% wages to the complainants in lieu of additional leave/holidays granted to them in excess of one day weekly off and 11 days Diwali holidays from the month of May,

1991. We order accordingly.

33. The appeals stand partly allowed as indicated above. The appellant shall calculate the due amount as afore-directed and pay the same to the complainants within six weeks from today failing which the unpaid amount shall carry an interest @ 8% per annum from the date it became due until the date of payment. The parties will bear their own costs.

34. We direct the Industrial Tribunal, Ahmedabad to dispose of Reference (IT No. 463/91) as expeditiously as possible and preferably within six months from the date of the receipt of this order.

……J
(Tarun Chatterjee)

……..J
(R. M. Lodha)

New Delhi
July 31, 2009.