

श्रेणी : II  
SERIES : II

Daman 28<sup>th</sup> February, 2020 09 Phalgun, 1941 (Saka)

सं. : 09  
No.

# सरकारी राजपत्र OFFICIAL GAZETTE



भारत सरकार  
Government of India

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

प्राधिकरण द्वारा प्रकाशित  
PUBLISHED BY AUTHORITY

**U.T. Administration of Dadra & Nagar Haveli and Daman & Diu  
Office of the District Magistrate,  
Daman**

## ORDER

**WHEREAS**, the Annual Examination of SSC & HSC are scheduled to be held from 05/03/2020 to 21/03/2020 (Time 10:00 AM to 1:15PM and 3:00 PM to 6:30PM) as per the Examination Time – Table declared by Gujarat Secondary & High Secondary Education Board, Gandhinagar.

**AND WHEREAS**, in view of the public Examination a large number of students and other persons will be gathering at the places of examinations and there is likelihood of situation becoming tense which may tend to create law and order problems.

**AND WHEREAS**, it is considered expedient for public peace and safety to regulate movement in and around educational institutions and carrying of arms, ammunition, etc., where public examinations are to be held.

**NOW**, therefore in exercise of the powers conferred under **Section 144** of the Code of Criminal Procedure, 1973 (No. 2 of 1974), I, Rakesh Minhas, IAS, District Magistrate, Daman, Do hereby order as under:

- 1) Movement of public in general is hereby prohibited in and around area of 200 meter of the below mention educational institutions during the period from 05/03/2020 to 21/03/2020 both days inclusive, during examination hours, i.e. 10:00 AM to 1:15PM and 3:00 PM to 6:30PM.

- a. **Sarvajanik Vidyalaya, Secondary and Higher Secondary School, Nani Daman.**
  - b. **Shree Machhi Mahajan English Medium School, Nani Daman.**
  - c. **Institute of Our Lady Fatima, Moti Daman.**
  - d. **Govt. Higher Secondary School- Bhimpore, Nani Daman.**
  - e. **Govt. Higher Secondary School- Moti Daman.**
- 2) No person shall carry arms, fire arms or ammunitions and other weapons like stick or lathi, cudgels, swords, spears bludgeons, knives or any other articles which is capable of being used for causing physical violence, in public or otherwise during the said period.
- 3) No loud speakers be used during the period between **9:00 AM to 6:30 PM from 05/03/2020 to 21/03/2020** within a radius of 200 meters from the aforementioned educational institutions.
- 4) The Xerox Machine / Shops situated within 200 meter SSC/HSC board Examination Centre of Daman should be closed during Examination Time from 05/03/2020 to 21/03/2020.

This order shall come into force with effect from **9.00 am of 05/03/2020** and shall remain in force till **6:30 pm of 21/03/2020**.

**The directives herein above shall not apply to:**

- 1) The officers of the Administration concerned with maintenance of law and order in Daman & Diu.
- 2) Police personnel employed / deployed for duties.
- 3) Any other persons duly authorized in writing by the District Magistrate, for the above mentioned period.

Given under my hand and seal on this – 2020.

Sd/-  
**(Dr. Rakesh Minhas)**  
District magistrate,  
Daman.

No. DE/ADM/SSC-HSC EXAM/2019-20/412

Dated :- 19/2/2020

**UT Administration of Dadra & Nagar Haveli and Daman & Diu  
Department of Labour & Employment  
Daman**

**E-136723**

**No. LE/LI/DMM/Fact-11/2018/910**

**Dated : 24/02/2020**

Subject : Award in IDR for publication in the Official Gazette.

With reference to the above cited subject the copy of Award IDR No. 8 of 2018 on 30/01/2020 is hereby published in the Official Gazette of this U.T. Administration of Dadra & Nagar Haveli and Daman & Diu for general information.

Sd/-  
**(Charmie Parekh)**  
Deputy Secretary (Labour),  
Daman

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SERIES II No. : 09

DATED : 28<sup>th</sup> FEBRUARY, 2020.

I.D.R. No. 08/2018  
M/s L. G. Systems  
Vs. Saudagar & Ors.

Received on : 25/09/2018  
Registered on : 25/09/2018  
Decided on : 30/01/2020  
Duration : 01 04 05  
YY MM DD

**IN THE COURT OF THE LABOUR JUDGE DAMAN AT DAMAN**

(Presiding Officer: **AMIT P. KOKATE**)

I.D.R. No. 08/2018  
CNR No.UTDD01-000826-2018

Exh. 4

**First Party** : M/s L.G. Systems,  
(Employer) Somnath Road, Dabhel,  
Nani Daman, Daman

Versus

**Second Party** : 1. Saudagar Yadav  
(Claimants) 2. Khajendra Thakur  
3. Sanaul Ansari  
4. Bijay Sarkar  
5. Bharat Senghani  
6. Ramchand Yadav  
7. Vishnudev Rajak

R/o. Room No. 15, Mukeshbhai's Chawl, Vallabh Jagan Road,  
Amliya, Dabhel, Nani Daman, Daman.

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**Appearance :** First Party in person  
Shri S.S. Modasia, Ld. Advocate for Second Party

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**AWARD**

(Passed on 30/01/2020)

1) This is a reference made by the Labour Commissioner under section 10(1)(c) of the Industrial Disputes Act, 1947 for adjudication of this Court on following question :

***Whether termination of service of the employees/workers is justified? If yes, what relief the workmen are entitled to?***

2) Notices were issued to both the parties. Both the parties appeared in this matter. However, despite giving many opportunities, second party failed to file their statement of claim. They all are absent since last many dates. Today also they all are absent through called out repeatedly till 1.50 p.m. Hence, obviously the second party did not lead evidence in support of their claim.

3) As per section 102 of the Indian Evidence Act, the burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side. In this matter, it is the second party who would fail if no evidence at all were given on either side. Hence, the burden to prove the claim is on the second party. As they have not led evidence, they fail to prove their claim. In these circumstances, I pass the following award.

**AWARD**

- 1) The reference is answered in the negative.
- 2) No order as to costs.
- 3) Copy of this award be sent to the U.T. Administration of Dadra & Nagar Haveli and Daman & Diu for its publication vide section 17(1) of the Industrial Disputes Act, 1947.

Date : 30/01/2020  
Daman

Sd/-  
**(A. P. KOKATE)**  
Labour Judge, Daman

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**UT Administration of Dadra & Nagar Haveli and Daman & Diu  
Department of Labour & Employment  
Daman**

**E-136721**

**No. LE/LI/DMM/Fact-4/2020/911**

**Dated : 24/02/2020**

Subject : Award in IDR for publication in the Official Gazette.

With reference to the above cited subject the copy of Award IDR No. 02 of 2017 on 30/01/2020 is hereby published in the Official Gazette of this U.T. Administration of Dadra & Nagar Haveli and Daman & Diu for general information.

Sd/-  
**(Charmie Parekh)**  
Deputy Secretary (Labour),  
Daman

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SERIES II No. : 09
DATED : 28 <sup>th</sup> FEBRUARY, 2020.

I.D.R. No. 02/2017  
M/s Veer Packaging  
Vs. Rasik Patel

Received on : 26/05/2017  
Registered on : 26/05/2017  
Decided on : 30/01/2020  
Duration : 02 08 04  
YY MM DD

**IN THE COURT OF THE LABOUR JUDGE DAMAN AT DAMAN**

(Presiding Officer: **AMIT P. KOKATE**)

I.D.R. No. 02/2017  
CNR No.UTDD01-000446-2017

Exh. 4

**First Party** : M/s Veer Packaging,  
(Employer) Dabhel, Nani Daman, Daman

Versus

**Second Party** : Rasik Manilal Patel,  
(Claimants) R/o. Maroli, Koliwad,  
Lala Faliya, Sanjan,  
Umargaon, Dist. Valsad (GJ).

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**Appearance :** First Party did not appear  
Second Party in person

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**AWARD**

(Passed on 30/01/2020)

1) This is a reference made by the Labour Commissioner under section 10(1)(c) of the Industrial Disputes Act, 1947 for adjudication of this Court on following question :

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

- 2) Notices were issued to both the parties. First party failed to appear in this matter through the notice was duly served on it vide Exh. 2.
- 3) Second party appeared in this matter but despite giving many opportunities, he failed to file his statement of claim. He is absent since last many dates. Today also he is absent through called out repeatedly till 4.30 p.m. Hence, obviously the second party did not lead evidence in support of his claim.
- 4) As per section 102 of the Indian Evidence Act, the burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side. In this matter, it is the second party who would fail if no evidence at all were given on either side. Hence, the burden to prove the claim is on the second party. As he has not led evidence, he fails to prove his claim. In these circumstances, I pass the following award.

**AWARD**

- 1) The reference is answered in the negative.
- 2) No order as to costs.
- 3) Copy of this award be sent to the U.T. Administration of Dadra & Nagar Haveli and Daman & Diu for its publication vide section 17(1) of the Industrial Disputes Act, 1947.

Date : 30/01/2020

Daman

Sd/-  
**(A. P. KOKATE)**  
Labour Judge, Daman

\*\*\*



**UT Administration of Dadra & Nagar Haveli and Daman & Diu  
Department of Labour & Employment  
Daman**

**E-136711**

**No. LE/LI/DMM/Fact-4(7)/2020/912**

**Dated : 24/02/2020**

Subject : Award in IDR for publication in the Official Gazette.

With reference to the above cited subject the copy of Award IDR No. 9 of 2017 on 13/02/2020 is hereby published in the Official Gazette of this U.T. Administration of Dadra & Nagar Haveli and Daman & Diu for general information.

Sd/-  
**(Charmie Parekh)**  
Deputy Secretary (Labour),  
Daman

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SERIES II No. : 09
DATED : 28 <sup>th</sup> FEBRUARY, 2020.

I.D.R. No. 9/2017  
M/s Excel Heaters  
Vs. Ramumohan Kotar

Received on : 09/11/2017  
Registered on : 09/11/2017  
Decided on : 13/02/2020  
Duration : 02 03 04  
YY MM DD

**IN THE COURT OF THE LABOUR JUDGE DAMAN AT DAMAN**

(Presiding Officer: **AMIT P. KOKATE**)

I.D.R. No. 09/2017  
CNR No.UTDD01-000928-2017

Exh. 08

**First Party** : M/s Excel Heaters,  
(Employer) Plot No. 644/25, Agrawal Industrial  
Estate, Somnath Road, Dabhel,  
Nani Daman, Daman.

Versus

**Second Party** : Ramumohan Shivbhavan Kotar,  
(Claimants) R/o. Room No. 65, Ramanbhai's Chawl,  
Rohan Nagar, Kewadi Faliya,  
Dabhel, Nani Daman, Daman.

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**Appearance :** First Party represented by authorized person  
Shri. Navin Sharma, Ld. Advocate for Second Party

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**AWARD**

(Passed on 13/02/2020)

1) This is a reference made by the Labour Commissioner, Daman under section 10(1)(c) of the Industrial Disputes Act, 1947 for adjudication of this Court on following question :

***Whether the termination of the service of the applicant is justified? If yes, what relief the workmen is entitled to?***

SERIES II No. : 09
DATED : 28 <sup>th</sup> FEBRUARY, 2020.

I.D.R. No. 9/2017  
M/s Excel Heaters  
Vs. Ramumohan Kotar

2) Second party has filed his statement of claim. First party has given reply to it. However, despite giving many opportunities, second party failed to lead evidence. He is absent since last many dates. Today also he is absent through called out repeatedly till 1.25 p.m.

3) As per section 102 of the Indian Evidence Act, the burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side. In this matter, it is the second party who would fail if no evidence at all were given on either side. Hence, the burden to prove the claim is on the second party. As he has not led evidence, he fails to prove his claim. In these circumstances, I pass the following award.

**AWARD**

- 1) The reference is answered in the negative.
- 2) No order as to costs.
- 3) Copy of this award be sent to the U.T. Administration of Dadra & Nagar Haveli and Daman & Diu for its publication vide section 17(1) of the Industrial Disputes Act, 1947.

Date : 13/02/2020  
Daman

Sd/–  
**(A. P. KOKATE)**  
Labour Judge, Daman

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**UT Administration of Dadra & Nagar Haveli and Daman & Diu  
Department of Labour & Employment  
Daman**

**E-136708**

**No. LE/LI/DMM/Fact-4(7)/2013/2020/913**

**Dated : 24/02/2020**

Subject : Award in IDR for publication in the Official Gazette.

With reference to the above cited subject the copy of Award IDR No. 01 of 2015 on 30/01/2020 is hereby published in the Official Gazette of this U.T. Administration of Dadra & Nagar Haveli and Daman & Diu for general information.

Sd/-  
**(Charmie Parekh)**  
Deputy Secretary (Labour),  
Daman

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SERIES II No. : 09
DATED : 28 <sup>th</sup> FEBRUARY, 2020.

I.D.R. No. 01/2015  
Hardik Ind. Corp.  
Vs. Devendra Dixit

Received on : 09/01/2015  
Registered on : 09/01/2015  
Decided on : 30/01/2020  
Duration : 05 00 21  
YY MM DD

**IN THE COURT OF THE LABOUR JUDGE DAMAN AT DAMAN**

(Presiding Officer: **AMIT P. KOKATE**)

I.D.R. No. 01/2015  
CNR No.UTDD01-000136-2015

Exh. 7

**First Party** : Hardik Ind. Corp. Pvt. Ltd.  
(Employer) Ringanwada, Nani Daman, Daman

Versus

**Second Party** : Devendra B. Dixit  
(Claimants) R/o. Patel Samajwadi Road,  
G.I.D.C., Vapi, Dist. Valsad (GJ).

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**Appearance :** First Party did not appear  
Shri. Jagdish Gheewala, Ld. Advocate for Second Party

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**AWARD**

(Passed on 30/01/2020)

1) This is a reference made by the Deputy Secretary (Labour & Employment) under section 10(1)(c) of the Industrial Disputes Act, 1947 for adjudication of this Court on following question  
:

***Whether sales executive comes under the definition of workman under section 2(S) of the Industrial Disputes Act, 1947? If yes, what relief the worker is entitled?***

- 2) Notices were issued to both the parties. First party failed to appear in this matter through the notice was duly served on it vide Exh. 6.
- 3) Second party appeared in this matter but despite giving many opportunities, he failed to file his statement of claim. He is absent since last many dates. Today also he is absent though called out repeatedly till 1.40 p.m. Hence, obviously the second party did not lead evidence in support of his claim.
- 4) As per section 102 of the Indian Evidence Act, the burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side. In this matter, it is the second party who would fail if no evidence at all were given on either side. Hence, the burden to prove the claim is on the second party. As he has not led evidence, he fails to prove his claim. In these circumstances, I pass the following award.

**AWARD**

- 1) The reference is answered in the negative.
- 2) No order as to costs.
- 3) Copy of this award be sent to the U.T. Administration of Dadra & Nagar Haveli and Daman & Diu for its publication vide section 17(1) of the Industrial Disputes Act, 1947.

Date : 30/01/2020  
Daman

Sd/-  
**(A. P. KOKATE)**  
Labour Judge, Daman

\*\*\*

**UT Administration of Dadra & Nagar Haveli and Daman & Diu  
Department of Labour & Employment  
Daman**

**E-136701**

**No. LE/LI/DMM/Fact-4(7)/2020/914**

**Dated : 24/02/2020**

Subject : Award in IDR for publication in the Official Gazette.

With reference to the above cited subject the copy of Award IDR No. 01 of 2017 on 13/02/2020 is hereby published in the Official Gazette of this U.T. Administration of Dadra & Nagar Haveli and Daman & Diu for general information.

Sd/–  
**(Charmie Parekh)**  
Deputy Secretary (Labour),  
Daman

—

SERIES II No. : 09
DATED : 28 <sup>th</sup> FEBRUARY, 2020.

I.D.R. No. 1/2017  
SVG Fashion Ltd.  
Vs. Sitaram Patel

Received on : 26/05/2017  
Registered on : 26/05/2017  
Decided on : 13/02/2020  
Duration : 02 08 18  
YY MM DD

**IN THE COURT OF THE LABOUR JUDGE DAMAN AT DAMAN**

(Presiding Officer: **AMIT P. KOKATE**)

I.D.R. No. 01/2017  
CNR No.UTDD01-000305-2017

Exh. 17

**First Party** : SVG Fashion Ltd.  
(Employer) Plot No.719/719-2, Somnath,  
Dabhel, Nani Daman, Daman.

Versus

**Second Party** : Sitaram Bharatprasad Patel,  
(Claimants) R/o. Room No. 4, Kalpeshbhai's Chawl,  
Amlia, Dabhel, Nani Daman, Daman.

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**Appearance :** Shri. S.S. Modasia, Ld. Advocate for first Party  
Shri. Navin Sharma, Ld. Advocate for Second Party

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**AWARD**

(Passed on 13/02/2020)

1) This is a reference made by the Labour Commissioner, Daman under section 10(1)(c) of the Industrial Disputes Act, 1947 for adjudication of this Court on following question :

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



2) Second party has filed his statement of claim. First party has given reply to it. However, despite giving many opportunities, second party failed to lead evidence. He is absent since last many dates. Today also he is absent though called out repeatedly till 1.15 p.m.

3) As per section 102 of the Indian Evidence Act, the burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side. In this matter, it is the second party who would fail if no evidence at all were given on either side. Hence, the burden to prove the claim is on the second party. As he has not led evidence, he fails to prove his claim. In these circumstances, I pass the following award.

**AWARD**

- 1) The reference is answered in the negative.
- 2) No order as to costs.
- 3) Copy of this award be sent to the U.T. Administration of Dadra & Nagar Haveli and Daman & Diu for its publication vide section 17(1) of the Industrial Disputes Act, 1947.

Date : 13/02/2020  
Daman

Sd/-  
**(A. P. KOKATE)**  
Labour Judge, Daman

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**UT Administration of Dadra & Nagar Haveli and Daman & Diu  
Department of Labour & Employment  
Daman**

**E-136728**

**No. LE/LI/DMM/Fact-8(7)/2015/2020/915**

**Dated : 24/02/2020**

Subject : Award in IDR for publication in the Official Gazette.

With reference to the above cited subject the copy of Award IDR No. 01 of 2016 on 30/01/2020 is hereby published in the Official Gazette of this U.T. Administration of Dadra & Nagar Haveli and Daman & Diu for general information.

Sd/–  
**(Charmie Parekh)**  
Deputy Secretary (Labour),  
Daman

—

SERIES II No. : 09

DATED : 28<sup>th</sup> FEBRUARY, 2020.

I.D.R. No. 01/2016  
M/s. SVG Fashions  
Vs. Anil Rathod

Received on : 10/02/2016  
Registered on : 10/02/2016  
Decided on : 30/01/2020  
Duration : 03 11 21  
YY MM DD

**IN THE COURT OF THE LABOUR JUDGE DAMAN AT DAMAN**

(Presiding Officer: **AMIT P. KOKATE**)

I.D.R. No. 01/2016  
CNR No.UTDD01-000115-2016

Exh. 49

**First Party** : M/s. SVG Fashions Limited  
(Employer) Plot No.719/2, Shree Venketeshwar Estate,  
Opp. Rabbani Masjid, Somnath Mandir Road,  
Somnath, Nani Daman, Daman.

Versus

**Second Party** : Anilkumar Amrutlal Rathod  
(Claimants) R/o. Flat No. 403, 4<sup>th</sup> Floor,  
'C' Wing, Dharmesh Apartment,  
Katharia, Tin Batti, Nani Daman

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**Appearance :** Shri. S.S. Modasia, Ld. Advocate for the first Party  
Second Party in person.

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**JUDGEMENT**

(Delivered on 31/01/2020)

1) This is a reference made by the Deputy Secretary (Labour and Employment) under section 10(1)(c) of the Industrial Disputes Act, 1947 for adjudication of this Court on following question :

**1. Whether the applicant has been forcefully terminated? If yes, what relief the workman is entitled to?**

**2. Whether the demand of the applicant amounting to Rs. 3,08,940/- is justified?**

SERIES II No. : 09
DATED : 28 <sup>th</sup> FEBRUARY, 2020.

I.D.R. No. 01/2016  
M/s. SVG Fashions  
Vs. Anil Rathod

- 2) It is stated in the statement of claim (Exh. 7) of the claimant that the second party was working with the first party as an Assistant Accountant from 01/05/2014. He was getting the salary of Rs. 4,500/- per month. He was looking after the work of accounts, store, dispatch and other work assigned by the superiors. He was performing his duty honestly and sincerely.
- 3) On 08/07/2015 at about 6.40 pm, second party was leaving the working premises after completing the duty. He was suddenly called by the General Manager of the first party and was verbally informed not to attend the duty from 09/07/2015 as the Director has instructed not to allow the second party to join duty. The General Manager asked the second party to collect his due amount from the factory at about 2.30 pm on 09/07/2015.
- 4) Accordingly, second party reached at the factory gate at about 2.30 pm on 09/07/2015. However, he was asked to come again at 2.30 pm on 11/07/2015. Meanwhile on 10/07/2015, Rajesh Dadarwal, HRD Assistant contacted the second party and discussed with him about his account dues. On 11/07/2015, second party went to the factory but he was asked to come on 13/07/2015. Therefore, on 13/07/2015, second party went to the factory but he was asked to come on 15/07/2015. In this way, first party tortured the second party.
- 5) On 15/07/2015, second party went to the factory. The Manager forced him to sign some papers which were already kept ready. The Manager did not give opportunity to the second party to read those documents. Second party was alone there. He was forced to write his name, address and other details at the blank spaces in those already prepared documents. He was threatened that he will not get money if he does not sign the papers. Therefore, he made signatures due to fear and pressure. Moreover, his financial condition is poor. Hence, he signed those papers. Thereafter, Manager issues a cheque of Rs. 85,345/- towards his settlement dues. Said amount is not satisfactory and not as per his actual entitlement. No reason was assigned for his termination. Nothing was given to him in writing.
- 6) On 28/07/2015, second party issued a legal notice to a first party thereby asking them to clear his balance dues of Rs. 3,08,940/- or in the alternate, to reinstate him in the service. On 19/08/2015, second party gave him false reply and refused to fulfill his request. The second party never availed leave benefits. He has worked on holidays for which he was never paid. He was never given overtime benefits and provident benefits. Hence, the second party took his grievance to the Conciliation Officer of the U.T. Administration of Daman and Diu by making an

application. However, the conciliation proceeding failed. Thus, this reference wherein the second party has requested to direct the first party to pay him the amount of Rs. 3,08,940/-.

7) The first party filed its reply at Exh. 14. It denied all the allegations. It is stated in the said reply that the second party was working as the Assistant Accountant with the first party from 01/05/2004. Second party was not removed from the service. On 08/07/2015, he himself had resigned with effect from 09/07/2015 on account of his domestic problem. Second party had asked the first party to calculate his legal dues which were calculated to be Rs. 70,345/-. However, he insisted for leave encashment of the year 2011 to 2013. Therefore, he was called on the next day.

8) On 15/07/2015, the second party visited the company. He was told that he would be paid the amount of Rs. 15,000/- towards leave encashment. He agreed to it. Accordingly, he submitted his resignation on 15/07/2015 and assigned the reason of domestic problem. First party paid him total amount of Rs. 85,345/- by cheque. (Rs. 51,923/- towards gratuity, Rs. 6,205/- towards bonus, Rs. 7932/- towards leave salary, Rs. 4285/- towards the salary of last 8 days and Rs. 15,000/- towards leave encashment of the year 2011 to 2013.) It was the full and final payment of his legal dues and he had agreed to accept it without any dispute or protest. He signed the voucher of the company. Had he been forced to sign the documents, he would not have encashed the said cheque. His story does not match with his conduct. His conduct shows that this claim is after thought. Second party is trying to extort money from the first party. Therefore, the first party requested to reject the claim.

9) In view of the questions referred by the Administration, my learned predecessor has framed the following points for determination at Exh. 15. My findings thereon are mentioned against each issue for the reasons given below.

<b><u>POINTS</u></b>	<b><u>FINDINGS</u></b>
1) Whether the second party was forcefully terminated? ....	No
2) Whether the second party is entitled to the amount of Rs. 3,08,940/- ? ....	No
3) What order and award ? ....	Reference is answered in the negative

**REASONS**

10) Second party examined only himself by filing his affidavit in lieu of his examination-in-chief at Exh. 17. Said affidavit is mere reproduction of his statement of claim. He has placed on record copies of his appointment letter, resignation letter, voucher, undertaking, applications moved to the U.T. Administration of Daman and Diu, demand notice, notice reply and certificate under section 65-B of the Indian Evidence Act.

11) First party did not lead either oral or documentary evidence.

**As to point no. 1 and 2:**

12) The second party made oral submission in person as well as submitted written notes of arguments (Exh. 47). It is submitted that no reason was assigned for this termination from the service. The call recordings show that the first party had forced and pressurized the second party to sign the resignation letter and other documents if he wanted his dues. In this way he was terminated from the service without following legal procedure. Thus, the second party requested to pass award in his favour.

13) Shri S.S. Modasia, learned advocate for the first party submitted that the second party had voluntarily resigned. It was not removal by the first party. He had accepted the cheque of his legal dues and had encashed it. His said conduct shows that he did not dispute the amount but later on brought the afterthought claim. Therefore, Shri. Modasia requested to pass the award accordingly.

14) The contents of the resignation letter (Exh. 23), second party's undertaking (Exh. 24) and debit voucher (Exh. 25) show that the second party had voluntarily resigned from the service. According to the second party, the first party had already prepared the said documents and they had forced him to sign the said papers if he wanted his dues. Now it is for the second party to prove the same. He could have proved it by obtaining admissions from the witness of the first party if the first party had led oral evidence. However, first party did not lead oral evidence. Hence, the second party could not avail this opportunity.

15) In order to prove that the first party had forced the second party to sign the resignation letter, second party has placed on record electronic evidence. It is a CD containing certain audio and video clips which assumes great significance. Second party has placed on record transcript

SERIES II No. : 09
DATED : 28 <sup>th</sup> FEBRUARY, 2020.

I.D.R. No. 01/2016  
M/s. SVG Fashions  
Vs. Anil Rathod

of the said electronic evidence. It contains the telephonic conversation between the second party and the officers of the first party. According to the second party, said officers had forced and pressurized the second party to sign the documents.

16) I have carefully read the entire transcript. It is worthy to note that none of the above stated officers has admitted or said during their telephonic conversation that the first party had removed the second party from the service. Moreover, none of the sentences spoke by the said officers would imply that they had forced or pressurized the second party to sign the documents and to accept the cheque.

17) On the contrary, the transcript of the video recording of the conversation between the second party and Mr. Ravikant Agarwal (General Manager) done on 13/07/2015 at 2.30 p.m. reveals that the second party had said, "if one leaves after such a long service, he will be given three months' salary (इतने साल के बाद छोड़ेगा तो तीन पगार देता है)". It becomes clear from the word 'छोड़ेगा' that the second party had left the job and he was not removed. Had he been removed by the first party, he would have said 'इतने साल के बाद निकालेंगे तो तीन पगार देता है'

18) Besides, the transcript of the conversation shows that after the said discussion, second party had agreed upon the amount calculated by the first party and had accepted the cheque. If he was pressurized to sign the resignation letter, voucher etc., he would not have presented the said cheque to the bank for encashment. From the said conduct of the second party, it can be inferred that the second party had voluntarily resigned and had accepted the cheque. He now, therefore, cannot dispute the same. Resultantly, his claim appears to be afterthought. For the said reasons, I have answered point no. 1 and 2 in the negative and in the answer of point no. 3, I pass the following award.

**ORDER**

- 1) The reference is answered in the negative with costs.
- 2) Copy of this award be sent to the U.T. Administration of Dadra, Nagar Haveli, Daman and Diu for its publication vide section 17(1) of the Industrial Disputes Act, 1947.

Date : 31/01/2020  
Daman

Sd/-  
**(A. P. KOKATE)**  
Labour Judge, Daman

**IN THE COURT OF THE LABOUR JUDGE, DAMAN.  
(Before Shri. Amit P. Kokate, Labour Judge, Daman.)**

Industrial Dispute Reference No. 01 of 2016.

**EXHIBIT – 50.**

**1) M/s. SVG Fashions Limited**

Plot No.719/2, Shree Venketeshwar Estate,  
Opp. Rabbani Masjid, Somnath Mandir Road,  
Somnath, Nani Daman, Daman.

First Party.

**V/s.**

**1) Shri Anilkumar Amrutlal Rathod**

R/o. Flat No. 403, 4<sup>th</sup> Floor, 'C' Wing,  
Dharmesh Apartment, Katharia,  
Tin Batti, Nani Daman  
Nani Daman.

Second party.

Advocate Shri S.S. Modasia for the First Party.

Second Party in person.

**A W A R D**

(Passed in open court on 31<sup>st</sup> January, 2020)

1] This is the reference made vide letter No. LE/LI/DMN/FACT-4(7)/2015/417 made by the Deputy Secretary (Labour & Emp.), Daman under Sec. 10 (1) of the Industrial Disputes Act in respect of an industrial dispute between M/s SVG Fashions Limited and its workman Shri Anilkumar Amrutlal Rathod in respect of matters pertaining to the settlement between the employer and the workmen.

2] The Second party-Workmen filed statement of claim alleging that he was the employed by the First Party-Company and he demanded he is entitled to the amount of Rs. 3,08,940/- which was not accepted by the management of the first party company.

3] The Claimant filed the statement of claim at Exh.07. The respondent company also filed the reply of claim at Exh.14.

4] The Claimant filed its affidavit. Ld. Advocate Shri S.S. Modasia filed Closing Pursis for the respondent company.



5] Hence, following order :

I] The reference is answered in the negative with costs.

II] Copy of this award be sent to the U.T. Administration of Dadra, Nagar Haveli, Daman and Diu for its publication vide section 17(1) of the Industrial Dispute Act, 1947.

Date : 31/01/2020

Daman

Sd/–  
**(A. P. KOKATE)**  
Labour Judge, Daman

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