

**(2025) 01 GUJ CK 1666**

**In the Gujarat High Court**

**Case No :** Special Civil Application No.6305 Of 2022

Arvindbhai Lakhabhai Madhvi

APPELLANT

Vs

State Of Gujarat & Ors

RESPONDENT

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**Date of Decision :** 24-01-2025

**Acts Referred:**

**Citation :** (2025) 01 GUJ CK 1666

**Hon'ble Judges :** Nirzar S. Desai, J

**Bench :** Single Bench

**Advocate :** N D Songara, Dhruvi Desai, Harshal N Pandya, S G Udhwani

**Final Decision :** Allowed

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## **Judgement**

Nirzar S. Desai, J

1. Heard, learned Advocate, Mr. Songara, appearing for the petitioner, learned AGP, Mr. Udhwani, for Respondent Nos. 1 and 2 and learned Advocate, Ms. Desai, appearing for learned Advocate, Ms. Pandya, for Respondent Nos. 3 and 4.

2. With the consent of the learned Advocates for the parties, this matter is taken-up for hearing and final disposal, today. Hence, Rule. Learned AGP, Mr. Udhwani, and learned Advocate, Ms. Desai, waives service for the respective Respondents.

3. By way of this petition, the petitioner has prayed for a direction to the Respondent-authorities to extend the benefit of Government Resolution dated 16.07.2019 to him with effect from 01.01.2019.

4. Learned Advocate, Mr. Songara, submitted that the present petitioner came to be appointed on the post of part-time sweeper vide order dated 04.12.2000 by Respondent No.4. Initially, the petitioner was given work of two hours a day and he was being paid at the rate of Rs.450/-. Subsequently, the work hours of the petitioner came to be extended by the Respondents from time-to-time and at present, the petitioner is working for about six hours a day. The amount towards salary, which is being paid to the petitioner, is directly being credited in his bank

account.

4.1 In the year 2019, the State Govern issued the GR dated 16.07.2019, which provides for hike in the salary of the persons working a part-time employees.

4.1.1 According to the petitioner, though, he is entitled to get the benefit of the GR dated 16.07.2019, as he is working for more than six hours a day, he is denied the same by the Respondents on the ground that the petitioner is working for only four hours a day.

Hence, the petitioner is before this Court by way of the present petition.

5. Learned Advocate, Mr. Songara, appearing for the petitioner submitted that the issue is squarely covered by the decision of the Division Bench of this Court dated 11.08.2023, rendered in the case of 'State of Gujarat Vs. Haresh Arjanbhai Parmar' in Letters Patent Appeal No. 724 of 2023, wherein, it is held that a person, who is working for more than four hours a day, then, he is entitled to get the benefit of GR dated 16.07.2019.

5.1 Learned Advocate, Mr. Songara, relied on the observations made by the Division Bench in Paragraphs- 32 and 33 of the aforesaid decision and prayed that the present petitioner be granted the benefit of the GR dated 16.07.2019, as prayed for.

6. Learned Advocate, Ms. Desai, appearing for learned Advocate, Ms. Pandya, strongly opposed this petition and by inviting the attention of this Court to the affidavit-in-reply filed on behalf of Respondent Nos. 3 and 4 submitted that petitioner worked for only four hours a day, till the same was enhanced to six hours a day with effect from 07.05.2016. It was, further, submitted that, pursuant to the issuance of GR dated 16.07.2019, a written instructions dated 29.04.2022 is issued by the Development Commissioner, whereby, all the district panchayats were requested to send the proposal of the part-time employees, who were working for more than six hours a day. Thereby, it was submitted that, as the petitioner had worked for only four hours a day upto 07.05.2016, his proposal could not be sent. She, therefore, prayed that this petition be dismissed.

6.1 Learned Advocate, Ms. Desai, however, could not dispute the fact that the work hours of the petitioner were increased from four hours to six hours a day with effect from 07.05.2016.

7. Learned AGP, Mr. Udhwani, submitted that the State has to act upon the proposal that may be sent by the concerned department for grant of the benefits of GR dated 16.07.2019 to and employee and therefore, as and when a proposal is made to the State, the State shall act on the same and shall do the needful, at the earliest. In other words, it was submitted that the role of the State shall commence only after a proposal is forwarded to it and thereby, it was submitted that, at this stage, State is a formal party.

8. I have heard the learned Advocates for the parties and have also perused the

material on record, including the affidavit filed on behalf of Respondent Nos. 3 and 4 herein, which indicates that, in fact, the petitioner has been working for more than six hours a day with effect from 07.05.2016. Now, in that context, if, the GR dated 16.07.2019 is read, then, it pertains to the part-time employees, who are working for more than six hours a day. In view of the above, it would be relevant to refer to the observations made by the Division Bench of this Court at Paragraphs-32 and 33 in the case of 'State of Gujarat Vs. Haresh Arjanbhai Parmar' (Supra), which read thus;

"32. In light of the above discussion, we reached at an irresistible conclusion that the opinion drawn by the learned Single Judge in paragraph '17' of the judgment impugned, giving interpretation to Clause-1 of the Circular dated 16.07.2019 to grant benefit of regular pay to the part-time employees working for less than four hours, is based on wrong assumptions. However, in view of the arguments of the learned Senior Counsel for the respondents – writ petitioners in light of the facts of the instant case, as the writ petitioners – respondents herein are covered by the Circular dated 16.07.2019 as they have demonstrated to have been working for six hours or more in a day in different departments of the State Government, we hold that the interpretation of the Circular dated 16.07.2019 in respect to those part-time employees who were/are working for less than four hours in a day, would not arise, in the instant case.

33. For the above, the judgment and order dated 19.07.2022 of the learned Single Judge, in the case of the writ petitioners – respondents herein, is modified with the observation that the issue with regard to the applicability of the Circular/ Government Resolution dated 16.07.2019 with regard to the part-time employees working for less than four hours, is left open for examination by this Court in an appropriate case. The observations made by us herein above on the opinion drawn by the learned Single Judge in paragraph '17' of the judgment impugned that the circular cannot be restricted to one category of part-time employees, shall not be treated as a binding precedent, inasmuch as, the issue of interpretation of the contents of the Circular dated 16.07.2019, has not arisen in the instant case, in principle. It is further clarified that the observations made herein above with regard to the interpretation of the Circular dated 16.07.2019 was only an effort to arrive at a just decision in the facts and circumstances of the instant case."

8.1 If, the observations made by the Division Bench and as reproduced herein above are read with the affidavit-in-reply filed on behalf of Respondent Nos. 3 and 4, which indicates that the petitioner has been working for more than six hours a day since 07.05.2016, then, the petitioner shall become eligible to get the benefits of GR dated 16.07.2019. Hence, the present petition deserves to be allowed.

9. Consequently, this petition is allowed and the Respondent Nos. 3 and 4 are directed to send a proposal to the State Government to grant the benefit of GR dated 16.07.2019 to the present petitioner at the earliest, but, in any case, not

later than 31st March, 2025. On receipt of such a proposal, the State Government is directed to act in accordance with law and to grant the benefit of the GR dated 16.07.2019 to the petitioner within the period of three months, thereafter. Rule is made absolute. No order as to costs.

Direct service is permitted.