
(1988) 10 GUJ CK 0002
In the Gujarat High Court

Balvantsing Sursing Dabhi

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 13-10-1988

Acts Referred:

Citation : (1990) 1 GLR 141

Hon'ble Judges : A.P. Ravani, J

Bench : Single Bench

Judgement

A.P. Ravani, J.—Rule. Mr. C.M. Joshi waives service of rule. In the facts of the case, with the consent of the parties, the petition is directed to be heard today.

2. The petitioner is serving as Dresser with respondent No. 3, i.e. in the office of the Medical Superintendent, Civil Hospital, Ahmedabad. The petitioner claims that he belongs to Class IV service and he is entitled to continue in service upto the age of 60 years. There is no dispute with regard to the fact that he will be superannuated on this basis on June 30, 1990. The petitioner rests his claim on the basis of definition of Class IV contained in B.C.S.R. The relevant Rule containing the definition is Rule 9(27). It reads as follows:

9(27). Class IV Service means service performed by the Government servants included in Appendix III and service remunerated in a time scale of pay the maximum of which does not exceed Rs. 270 in the case of Government servants not so included.

It is an admitted position that figure of Rs. 270/- occurring in the aforesaid definition has been substituted by Rs. 1150/- in the definition clause. The post of Dresser is not included in Appendix III, but service of the petitioner is remunerated in time scale of pay the maximum of which does not exceed Rs. 1150/-. Therefore the second criterion is fulfilled and the petitioner's post fails in Class IV.

3. In this view of the matter the petitioner would be entitled to continue in service upto the age of sixty years.

4. The petitioner has challenge the legality and validity of the correctness or his birth date as recorded in his service record. But at the time of hearing of the petition, the learned Counsel for the petitioner has fairly conceded that he does not challenge the legality and validity of the correctness of the birth date recorded in his service record. Therefore, this question is not required to be decided.

5. In the result the petition is partly allowed. The petitioner shall be entitled to continue in service till he reaches the age of sixty years as per the birth date recorded in his service record. Rule made absolute accordingly.