

(2016) 08 GUJ CK 0006

In the Gujarat High Court

Case No : Special Civil Application No. 52 of 2011

Bariya Prabhatbhai Mangalbhai

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 02-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 3 GCD 2097

Hon'ble Judges : Smt. Abhilasha Kumari, J.

Bench : Single Bench

Advocate : Mr. K.B. Pujara, Advocate, for the Petitioner No. 1; Deleted, for the Respondent Nos. 4 to 5; Mr. Niraj Ashar, Asst. Government Pleader, for the Respondent Nos. 1 to 3; Notice Served, for the Respondent No. 5

Final Decision : Allowed

Judgement

Smt. Abhilasha Kumari, J. (Oral)—By preferring this petition under Article-226 of the Constitution of India, the petitioner has, interalia, prayed for the issuance of an appropriate writ or direction to the respondents to grant him promotion as a Work-charged Work Assistant, in the pay-scale of Rs. 4000-6000, with effect from 01.10.1988 as have been granted to the juniors of the petitioner by respondent No. 2 by the office order dated 20.10.2008 and to pay the arrears, accordingly.

2. Briefly stated, the facts of the case are that the petitioner, whose date of birth is 01.06.1960, passed the Secondary School Certificate (SSC) Examination in the year 1976. He was appointed as a daily-waged employee under the Narmada Water Resources and Water Supply and Kalpsar Department (respondent Department) on 01.01.1979. The State Government, through the respondent-Department, issued a Government Resolution dated 30.06.1998, whereby it was decided to place all daily-waged employees who had passed the SSC examination prior to 31.12.1990, on the Work-charged establishment, on Class-III posts, with effect from 01.10.1988. The said Government Resolution provides that a

seniority list of such daily-waged employees be prepared. It further stipulates that those daily-waged employees whose names figure in the said seniority list, would be eligible to be granted the benefit of the said Government Resolution. Accordingly, respondent No.2, Superintending Engineer, Kadana Project Circle-II, published the seniority list dated 08.08.2001 reflecting the names of all such daily-waged employees who had passed the SSC examination prior to 31.12.1990. The name of the petitioner figures at Serial No.9 in the said seniority list. Other details of the petitioner such as his date of birth, date of passing the SSC examination and date of joining as a daily-waged employee in the respondent-Department, have been shown. It is also stated in column No.9 of the said seniority list, that the petitioner would be eligible to receive the said benefit of the said Government Resolution with effect from 01.10.1988. At the relevant point of time, the petitioner was serving in the Kadana Project Circle-II. Thereafter, by an order dated 06.04.2002, respondent No.2 transferred some of the employees of Kadana Project Circle-II, including the petitioner, to Panam Project Circle. After the petitioner was transferred to Panam Project Circle, respondent No.2 passed an order dated 24.12.2004, placing 124 daily-waged employees who had passed the SSC examination prior to 31.12.1990, in Work-charged Class-III posts in the pay-scale of Rs. 3050-4590, with effect from 01.10.1988. It is the case of the petitioner that except for the daily-waged employees reflected at Serial Nos. 105 and 106 of the said order, all the other persons who have been granted the said benefit, are junior to the petitioner. The petitioner asserts that he is entitled to be placed in a Work-charged Class-III post in the pay-scale of Rs. 3050-4590 with effect from 01.10.1988, when his juniors were granted this benefit and to be granted the arrears accordingly. Instead, respondent No. 3, Superintending Engineer, Panam Project Circle, passed an office order dated 27.10.2006, in respect of the present petitioner, placing him in a Work-charged Class-III post, in the pay-scale of Rs. 3050-4590, only with effect from 01.05.2006 and not from 01.10.1988. According to the petitioner, instead of giving the deemed date of 01.10.1988 and benefit of arrears with effect from the said date as per the Government Resolution dated 30.06.1998, the petitioner has been granted the pay-scale of a Work-charged Class-III employee after about seventeen years and seven months from the date on which he became entitled to it. It is further the case of the petitioner that his juniors have been further promoted as Work-charged Work Assistants, in the pay-scale of Rs. 4000-6000, with effect from the date on which they completed ten years of service as Work-charged employees, that is to say with effect from 01.10.1998, with arrears of salary with effect from the said date. However, no such order has been passed in the case of the petitioner, till date. Aggrieved by the above actions of the respondents which, according to the petitioner, are unjust and in violation of Articles 14 and 16 of the Constitution of India, he has approached this Court for the redressal of his grievances.

3. Mr. K.B. Pujara, learned counsel for the petitioner has submitted that, the Government Resolution dated 30.06.1998, issued by the respondent-Department

clearly confers the benefit of being placed in a Work-charged Class-III post upon those daily-waged employees who have passed the SSC examination prior to 31.12.1990. Un-disputably, the petitioner has passed the said examination in the year 1976, therefore, he is clearly entitled to receive the benefit of the said Resolution. Further, the Resolution confers the benefit with effect from 01.10.1988. The petitioner is also entitled to receive the said benefit from that date. This aspect is clearly admitted by the respondents by issuing the seniority list dated 08.08.2001, showing the seniority position of those daily-waged employees who had passed the SSC examination before 31.12.1990. The name of the petitioner figures at Serial No.9 in the said seniority list, which has not been disputed by the respondents. It is submitted that, just because the petitioner was transferred from Kadana Project Circle-II to Panam Project Circle, his entitlement cannot be taken away and he cannot be denied the benefits of the Government Resolution dated 30.06.1998 from the date on which they are due to him. It is contended that it was not in the hands of the petitioner to have avoided his transfer, as several employees were transferred by the respondents. However, the juniors of the petitioner, who remained in Kadana Project Circle-II, have been granted the benefit of the Government Resolution, of which the petitioner has been deprived. Learned counsel for the petitioner has further contended that the Government Resolution dated 30.06.1998 does not make any distinction between different Circles of the respondent-Department. Vide the said Government Resolution, the eligibility of all daily-waged employees who have passed the SSC examination before the stipulated date is to be considered for being brought under the Work-charged Class-III establishment. The contention of the respondents in the affidavit-in-reply that, by virtue of his transfer to Panam Project Circle, the petitioner is not entitled to the benefit of the Government Resolution, cannot be accepted.

3.1 Learned counsel for the petitioner has submitted that it is a settled position of law that a junior cannot be paid more than the senior, as has been held by the Supreme Court in the case of *Gurcharan Singh Grewal and another v. Punjab State Electricity Board and others*, reported in (2009) 3 SCC 94. This judgment would be applicable in the case of the petitioner.

3.2 It is submitted that in the present case the juniors of the petitioner have been granted higher pay-scale with arrears, whereas the petitioner has been ignored only on the ground that he was transferred to another Circle. Though the petitioner was brought on the Work-charged establishment, the said benefit has been granted from a much later date than his entitlement, which has caused grave injustice to him. The action of the respondents in depriving the petitioner of his legitimate dues is in violation of the mandate of Articles 14 and 16 of the Constitution of India and the said unjust action of the respondents may be quashed and set aside.

4. The petition has been strongly opposed by Mr. Niraj Ashar, learned Assistant Government Pleader by submitting that, the petitioner has been transferred from

Kadana Project Circle-II to Panam Project Circle by an order dated 06.04.2002, therefore, his seniority would be reckoned as per the position in the Panam Project Circle. The petitioner cannot claim the same seniority in the Panam Project Circle as his previous seniority in the Kadana Project Circle-II. The respondents have, therefore, rightly granted him the benefit of placing him in the Work-Page 8 of 29 HC-NIC Page 8 of 29 Created on Wed Oct 26 13:06:30 IST 2016 C/SCA/52/2011 JUDGMENT charged Class-III pay-scale with effect from 01.05.2006, by the order dated 27.10.2006. As the petitioner is not an employee of the Kadana Project Circle-II, he cannot claim the benefit of the seniority of that circle, which has been given to his juniors. It is further submitted that in the order dated 27.10.2006, it is clearly mentioned that the petitioner shall not be given the benefit of the old deemed date or arrears, therefore, no illegality has been committed by the respondents.

4.1 Learned Assistant Government Pleader has further referred to the second affidavit-in-reply filed on behalf of respondent No.2, and submitted that the Roads and Building Department has issued a Government Resolution dated 21.01.1998, wherein it has been specifically mentioned that the appointment to the post of Work-charged Karkoon can be considered only to the sanctioned and vacant post, subject to seniority. The same can be considered by the concerned Circle office only. Hence, the order in the case of the petitioner has been passed by Panam Project Circle in view of the Government Resolution dated 21.01.1998 passed by the Roads and Building Department.

4.2 Learned Assistant Government Pleader has next submitted that in the Government Resolution dated 30.06.1998, the Government Resolution dated 10.11.1997 of the Roads and Building Department has been mentioned. This Government Resolution is, therefore, applicable to the respondent-Department. The claim of the petitioner that the benefit of being brought under the Work-charged establishment be granted to him with effect from 01.10.1988, may not be accepted.

5. This Court has heard learned counsel for the respective parties at length, perused the averments made in the petition, the contents of the two affidavits-in-reply filed on behalf of respondent No.3 and the other documents on record.

6. From a perusal of the material on record, certain undisputed aspects of the case emerge, which deserve to be noticed and considered at the very outset.

(a) It is not disputed by the respondents that the petitioner has passed the SSC examination in the year 1976, even before he was appointed on daily wage basis in the respondent-Department, on 01.01.1979, and much before the cutoff date of 31.12.1990.

(b) It is also not in dispute that by the Government Resolution dated 30.06.1998, the State Government has taken a policy decision to place those daily-waged employees who had passed the SSC examination prior to 31.12.1990, under the Work-charged establishment on Class-III posts, with effect from 01.10.1988. The

seniority list of those daily-wage employees who had passed the SSC examination prior to 31.12.1990 and were eligible for the grant of the said benefit was prepared by the respondent-Department on 08.08.2001.

(c) It is further not disputed that in the said seniority list the name of the petitioner is shown at Serial No.9. The details of the petitioner such as his date of birth, the date on which he passed the SSC examination and the date of his appointment have been clearly reflected in the seniority list. In column No. 9 of the said seniority list it is stated that the petitioner is entitled to the benefit of the Government Resolution dated 31.12.1990 with effect from 01.10.1988. This clearly means that the respondent-Department is very well-aware that the petitioner is eligible to be brought under the Work-charged establishment on a Class-III post as per the Government Resolution dated 30.06.1998, with effect from 01.10.1988. There is no denial to this seniority list or the details given therein at any point of time from the respondents.

(d) Another undisputed aspect of the matter is that persons who are admittedly junior to the petitioner have been granted the benefit of the Government Resolution dated 30.06.1998, with effect from 01.10.1988, whereas, in the case of the petitioner, this benefit has been granted to him only with effect from 01.05.2006.

(e) The matter does not rest here. Admittedly, the juniors of the petitioner have, since then, been made Work-charge Work Assistants, in the pay-scale of Rs. 4000-6000, but this benefit has been denied to the petitioner.

(f) The petitioner has been brought under the Work-charged establishment on a Class-III post only with effect from 01.05.2006 when he was fully eligible to receive this benefit from 01.10.1988 as stipulated in the Government Resolution dated 30.06.1998. He has lost about seventeen years and seven months status and salary attached to the said post. The petitioner has been deprived of being made a Work-charge Work Assistant in the pay-scale of Rs. 4000-6000 even though his juniors are enjoying this status and salary.

(g) According to the respondents, pursuant to the transfer of the petitioner from Kadana Project Circle-II to Panam Project Circle, his seniority has changed and he cannot claim the old seniority as per the seniority list dated 08.08.2001.

(h) It is not in dispute that the transfer of the petitioner has not been made on his request but, as stated in the affidavit-in-reply filed by respondent No.3, affirmed on 18.02.2011, the entire subdivision was transferred from Kadana Project Circle-II to Panam Project Circle. This has purportedly resulted in depriving the petitioner of the benefit of the Government Resolution dated 30.06.1998 from the date on which it was due to him.

6.1 It transpires from the above-noted undisputed aspects of the case that the issue arising for consideration before this Court can be confined in a narrow compass. The relevant question to be answered is whether, upon the transfer of

the petitioner from Kadana Project Circle-II to Panam Project Circle, he would lose his seniority and, consequentially, the benefits for which he is eligible under the Government Resolution dated 30.06.1998, that have been conferred upon his juniors?

7. After careful consideration of the pleadings of the parties, the submissions advanced at the Bar and upon perusal of the documents annexed the answer that emerges to the above question is in the negative. The reasons for this are as follows:

8. There is no doubt regarding the fact that the petitioner meets with the requirements of the Government Resolution dated 30.06.1998 as he has passed the SSC examination in the month of October, 1976, much before the date 31.12.1990, as required in the said Government Resolution. Consequently, the petitioner is eligible to receive the benefit of the said Government Resolution and be placed in the Work-charged establishment on a Class-III post with effect from 01.10.1988, as provided in the Government Resolution. This aspect has not been disputed by the respondents and neither has the seniority list dated 08.08.2001, wherein this position is reflected, been denied.

9. It is significant to note that when the Government Resolution dated 30.06.1998 was issued, the petitioner was still working in the Kadana Project Circle-II. The petitioner was eligible to be given the benefits of the said Government Resolution even before he was transferred to Panam Project Circle. The entitlement of the petitioner cannot be taken away by his transfer as the Government Resolution dated 30.06.1998 does not have any such stipulation. The transfer of the petitioner to another Circle at the behest of the respondents can have no effect on the entitlement of the petitioner at any point of time, especially before his transfer. The petitioner was, therefore, not only eligible, but entitled to be granted the benefit of the Government Resolution dated 30.06.1998 straightaway, by placing him in the Work-charged establishment on a Class-III post with effect from 01.10.1988. The name of the petitioner figures at Serial No.9 of the said list, which also records his date of birth, date of joining the respondent-Department and the date of passing the SSC examination. More significantly, the said seniority list records that the petitioner is entitled to be granted the benefits of the Government Resolution dated 30.06.1998 with effect from 01.10.1988. In the said list there are only eight persons who are senior to the petitioner. However, the respondents have ignored the petitioner and granted the benefit of the Government Resolution to those persons who are admittedly junior to the petitioner.

10. The respondent-Department decided to transfer the entire subdivision en-bloc from Kadana Project Circle-II to Panam Project Circle along with staff. The petitioner was also transferred by an order dated 06.04.2002. Even though the petitioner was entitled to receive the benefit of the Government Resolution dated 30.06.1998 even before his transfer, there is no explanation forthcoming from the respondents in either of the two affidavits-in-reply why such benefit was not

granted to him when he was working in the Kadana Project Circle-II. A flimsy reason is put forth by the respondents that the petitioner has lost his seniority upon his transfer. The transfer of the petitioner was not in his hands in the first place. However, it is being made an excuse by the respondents to deprive the petitioner of his legitimate dues, flowing from the Government Resolution dated 30.06.1998. The juniors of the petitioner, who had the good fortune to remain in the Kadana Project Circle-II reaped the benefit of the said Government Resolution. By way of illustration, reference can be made to the seniority list dated 08.08.2001, in which the name of the petitioner figures at Serial No.9. Three persons, who are junior to the petitioner, namely, Shri Kiritkumar Maganlal Pandya, Shri Mahendrakumar Nathalal Joshi and Shri Jayantilal Ambalal Prajapati, whose names figure at Serial Nos.28, 29 and 30 respectively in the said seniority list, have been granted the benefits of the Government Resolution dated 30.06.1998 with effect from 01.10.1988, by the order dated 24.12.2004 in the pay-scale of Rs. 3050-4590. Their names figure at Serial Nos. 21, 22 and 23 in the said order.

11. The said juniors of the petitioner have further been granted the benefit of being made Work-charge Work Assistants in the pay-scale of Rs. 4000-6000, as is clear from the order dated 20.10.2008 and the list annexed thereto, wherein their names figure at Serial Nos. 14, 15 and 16 respectively. The petitioner has not received this pay-scale at all. He is being paid lesser salary than his juniors. After the petitioner was transferred to Panam Project Circle, the respondents have passed an order dated 27.10.2006 placing the petitioner in the Work-charged establishment on a Class-III post with effect from 01.05.2006, when his entitlement is from 01.10.1988. It is stated in the said order that the petitioner would not be entitled to the old deemed date, meaning 01.10.1988, or the arrears of salary. No reasons have been assigned for this action.

12. This decision has been made by the order annexed as Annexure-E, which is merely an office order No. 193/2006 issued on 27.10.2006. On the other hand, the Government Resolution dated 30.06.1998 is a reflection of the policy decision taken by the State Government in respect of those daily-rated workers who have passed the SSC examination prior to 31.12.1990. The said office order does not reflect the policy of the State Government but is an administrative order passed only in respect of Panam Project Circle. The Government Resolution dated 30.06.1998 lays down the policy for the entire class of daily-rated workers who have passed the SSC examination prior to 31.12.1990, as a whole. The Government Resolution is reflective of the policy of the State Government and is a decision of the State Government. Such a decision cannot be varied by an administrative order passed by an Executive Engineer working in the respondent-Department. Another important aspect of the matter is that by the said office order respondent No.3 is seeking to take away the benefit to which the petitioner is entitled and eligible as per the admission of the respondents themselves. However, for totally arbitrary consideration, the respondents are trying to deny the benefit to which the petitioner is entitled from the date of his entitlement in

total contravention of the Government Resolution dated 30.06.1998. There is no denial to the fact either in the order dated 27.10.2006 or either of the two affidavits-in-reply filed by respondent No.3, that in the seniority list dated 08.08.2001 wherein the petitioner figures at Serial No.9, it is stated that he will be eligible for the benefit of being placed in the Work-charged Class-III post with effect from 01.10.1988. By a mere stroke of the pen, respondent No.3 has whittled away the said benefit to which the petitioner is entitled in an utterly arbitrary fashion and has condescendingly granted it only with effect from 01.05.2006 by the order dated 27.10.2006. No convincing reasons for this illegal action have been given.

13. It appears that during the course of the hearing of the petition, this Court (Coram: Mr. Anant S. Dave, J.) by the order dated 28.09.2011 noted the submissions of the then learned Assistant Government Pleader, to the effect that the transfer of the petitioner from Kadana Project Circle-II to Panam Project Circle would disentitle him to the benefit claimed. In this context, the Court noted in the said order that in the absence of relevant provisions in the statutory rules and/or Government Resolution in support of the affidavit-in-reply and averments, the learned Assistant Government Pleader had sought time. The situation has not changed from that date, though a second affidavit-in-reply has been filed by respondent No. 3, affirmed on 08.10.2011. In the said affidavit-in-reply, no statutory rules have been cited. Further, no Government Resolution has been placed on record that has the effect of cancelling or modifying the Government Resolution dated 30.06.1998. Instead, it is averred in paragraph-3 of the said affidavit, that Roads and Building Department of the State Government has issued a Resolution dated 21.01.1998 wherein it has been specifically mentioned that appointment to the post of Work-charge Karoon can be considered only if the post is sanctioned and vacant, as per the seniority.

14. A perusal of the said Government Resolution indicates that it is in the nature of a clarification pursuant to another Government Resolution dated 10.11.1997 of the same department. This Court fails to understand how this Government Resolution can be applicable in the case of the petitioner. The Government Resolution of the Roads and Building Department is clearly not applicable to the respondent-Department, especially as the issue is covered by the Government Resolution dated 30.06.1998 issued by the very department under which the petitioner works.

15. It has been contended by the learned Assistant Government Pleader that while issuing the Government Resolution dated 30.06.1998, the Government Resolution of the Roads and Building Department dated 10.11.1997 has been considered. Taking this argument further, it is submitted that this means that the Government Resolution of the Roads and Building Department is applicable to the petitioner. The Court is unable to accept this submission for the simple reason that after considering the Government Resolution of the Roads and Building Department, among other things, the respondent-Department has issued the

Government Resolution dated 30.06.1998. The Government Resolution of the Roads and Building Department has never been adopted by the respondent-Department. Had that been the case, the Government Resolution dated 30.06.1998 would not have been issued as there would have been no need to do so. The State Government, through the respondent-Department has come out with its own policy for a particular class of employees. The contention of the learned Assistant Government Pleader, therefore, is without any substance. As per the case of the respondents, the sole reason for depriving the petitioner of the benefits of the Government Resolution dated 30.06.1998 is his transfer from Kadana Project Circle-II to Panam Project Circle. According to the learned Assistant Government Pleader, the seniority of the petitioner is to be considered in the concerned Circle only, that is in the Panam Project Circle, therefore, the petitioner can only be placed in the Work-charged establishment from 01.05.2006.

16. This submission is not based on any legal premise and is, therefore, without any merit. The benefit of being placed in the Work-charged establishment as per the Government Resolution dated 30.06.1998 has been granted to those employees who have passed the SSC examination before 31.12.1990. Admittedly, the petitioner has passed the said examination in the year 1976, even before his appointment. In respect of those daily-rated workers, who are eligible under the said Government Resolution and have passed the SSC examination before 31.12.1990 the seniority list dated 08.08.2001 has been prepared so as to reflect the names of those persons who are eligible to be granted the said benefit, in order of seniority. It is not disputed that the petitioner has been appointed in the respondent-Department on 01.01.1979. His substantive seniority in the department which flows from his date of initial appointment can never be taken away only because he was transferred from one Project Circle to another, under the same department, due to administrative exigency. The transfer of the petitioner at the volition of the respondents cannot be used as an instrument to deprive him of his rightful and legitimate dues. It is a settled position of law that though the transfer of an employee is an incidence of service, it cannot be permitted to result in a change in his service conditions, to his detriment. The only defence taken by the respondents hinges upon the transfer of the petitioner, which defence is found to be against all settled principles of service jurisprudence. No rules, regulations or even executive instructions, have been shown to the Court in support of the stand taken by the respondents. The action of the respondents in depriving the petitioner of being brought under the Work-charged establishment on a Class-III post with effect from 01.10.1988 and of depriving him of the post of Work-charge Work Assistant in the pay-scale given to his juniors is without any legal basis and is illustrative of utter arbitrariness and discrimination on the part of the respondents. By passing the order dated 27.10.2006, the respondents have attempted to dilute the Government Resolution dated 30.06.1998. When, as per the policy decision of the State Government contained in the said Government Resolution, the

petitioner is entitled to be brought in the Work-charged establishment in a Class-III post from 01.10.1988, no power was available to respondent No.3 to pass the said order granting the petitioner the said benefit only from 01.05.2006, thus depriving him of approximately seventeen years and seven months of service benefits.

17. In the view of this Court the respondents have meted out gave injustice to the petitioner by their acts of omission and commission.

18. Apart from being arbitrary, the said decision of the respondents is highly discriminatory in nature as the juniors of the petitioner, who had the good fortune of not being transferred out of Kadana Project Circle-II, have received the benefits of the Government Resolution dated 30.06.1998 with effect from 01.10.1988. In addition thereto, the said juniors have been made Work-charge Work Assistants in the pay-scale of Rs. 4000-6000, which benefit has still not been conferred upon the petitioner.

19. In *Gurcharan Singh Grewal and another v. Punjab State Electricity Board and others* (supra), relied upon by the learned advocate for the petitioner, the Supreme Court has stated thus :

"17. Something may be said with regard to Mr. Chhabra's submissions about the difference in increment in the scales which the Appellant 1 and Shri Shori are placed, but the same is still contrary to the settled principle of law that a senior cannot be paid a lesser salary than his junior. In such circumstances, even if there was a difference in the incremental benefits in the scale given to Appellant 1 and the scale given to Shri Shori, such anomaly should not have been allowed to continue and ought to have been rectified so that the pay of Appellant 1 was also stepped up to that of Shri Shori, as appears to have been done in the case of Appellant 2."

20. As stated by the Apex Court, a junior cannot be paid more salary than the senior. In the present case, not only has the petitioner, who is senior, been deprived of his rightful dues, but he has also been deprived of the salary that is consequential to the said benefits for no discernible reason, except the flimsy one regarding his transfer from Kadana Project Circle-II to the present one. This is no reason in the eyes of law.

21. The cumulative effect of the above discussion leads to only one conclusion and that is, that the action of the respondents in not granting the benefit of the Government Resolution dated 30.06.1998 to the petitioner with effect from 01.10.1988, being arbitrary, discriminatory and unjust, deserves to be quashed and set aside. There is a considerable merit in the petition which deserves to be accepted.

22. Hence, the following order is passed : The petition is allowed. The respondents are directed to grant the deemed date of 01.10.1988 to the petitioner in the Work-charged Class-III post carrying the pay-scale of Rs.

3050-4590. The respondents are further directed to promote the petitioner as a Work-charge Work Assistant in the pay-scale of Rs. 4000-6000 with effect from 01.10.1998, which is the date from which his juniors were so promoted. In addition, the respondents are directed to pay all arrears to the petitioner as are due to him, with interest at the rate of 9% per annum from the date when such arrears were due, to the date of payment. The respondents shall ensure that the needful is done within a period of three months from the date of the receipt of a copy of this judgment.

23. Rule is made absolute, as above. There shall be no orders as to costs.

24. Direct service of this order is permitted.