

(2014) 11 GUJ CK 0043
In the Gujarat High Court

Case No : Special Civil Application Nos. 16632, 16815 and 16817 of 2004

Devshi Karsan Singhal

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 13-11-2014

Acts Referred:

Citation : (2014) 11 GUJ CK 0043

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : U.I. Vyas, Advocate for the Appellant; Dhawan Jayswal, AGP,
Advocate for the Respondent

Judgement

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Mukesh R. Shah, J.—As common question of law and facts arise in these group of petitions, they are disposed of by this common judgment and order.

2. In all these petitions, the respective petitioners, who are serving/working as daily wagers under the Forest Department of the State of Gujarat has prayed for an appropriate writ, order or direction directing the respondents to regularize their services and grant permanency on the post of Plantation, Watchman/Labourer and to grant the benefit, which may be available to the permanent employees on the post of Plantation, Watchman/Labourer, as the case may be.

3. Today, when the present Special Civil Applications are taken up for final hearing it is reported that the issue involved in the present Special Civil Applications is squarely covered by the decision of the Hon"ble Supreme Court in the case of State of Gujarat and Others Vs. PWD Employees Union and Others etc., . It is reported that in the case of similarly situated daily wagers/Labourers of Forest Department under the control of Forest and Environment Department, State of Gujarat the Hon"ble Supreme Court has directed the State government to grant the benefit of the scheme contained in the Resolution dated 17/10/1988 to all the daily wagers/workers of the Forest and Environment Department

working for more than five years. From the decision of Hon"ble the Supreme court in the case of PWD Employees Union and Ors (Supra) it appears that the Hon"ble Supreme Court has observed and held in paragraph Nos. 25 and 26 and has issued the directions to the State Government as under;

"25. As per scheme contained in Resolution dated 17/10/1988 all the daily wage workers were not entitled for regularization or permanancy in the services. As per the said Resolution the daily wagers are entitled to the following benefits:-

(i) They are entitled to daily wages as per the prevailing daily wages. If there is presence of more than 240 days in first year, daily wagers are eligible for paid Sunday, medical allowance and national festival holidays.

(ii) Daily wagers and semi skilled workers who has service of more than five years and less than 10 years are entitled for fixed monthly salary alongwith dearness allowance as per prevailing standard, for his working days. Such daily wagers will get two optional leave in addition to 14 misc. leave, Sunday leave and national festival holidays. Such daily wagers will also be eligible for getting medical allowance and deduction of provident fund.

(iii) Daily wagers and semi skilled workers who has service of more than ten years but less than 15 years are entitled to get minimum pay scale at par with skilled worker alongwith dearness allowance as per prevailing standard, for his working days. Moreover, such daily wagers will get two optional leave in addition to 14 misc. leave, Sunday leave and national festival holidays. He/she will be eligible for getting medical allowance and deduction of provident fund.

(iv) Daily wagers and semi skilled workers who has service of more than 15 years will be considered as permanent worker and such semi skilled workers will get current pay scale of skilled worker alongwith dearness allowance, local city allowance and house rent allowance. They will get benefit as per the prevailing rules of gratuity, retired salary, general provident fund. Moreover, they will get two optional leave in addition to 14 misc. leave, 30 days earned leave, 20 days half pay leave, Sunday leave and national festival holidays. The daily wage workers and semi skilled who have completed more than 15 years of their service will get one increment, two increments for 20 years service and three increments for 25 years in the current pay scale of skilled workers and their salary will be fixed accordingly."

26. Considering, the facts and circumstances of the case, the finding of Gujarat High Court dated 29/10/2010 in SCA No. 8647/2008 and connected matters and the fact that the said judgment is binding between the parties, we are of the view that the appellants should be directed to grant the benefit of the scheme as contained in the Resolution dated 17/10/1988 to all the daily wage workers of the Forest and Environment Department working for more than five years, providing them the benefits as per our finding at paragraph 25 above. The appellants are directed accordingly. The judgment and order passed by the learned Single Judge dated 29/10/2010 as affirmed by the Division Bench by its

order dated 28/02/2012 stands modified to the extent above. The benefit should be granted to the eligible daily wage workers of the Forest and Environment Department working for more than five years including those who are performing work other than building maintenance and repairing but they will be entitled for the consequential benefit w.e.f. 29/10/2010 or subsequent date from which they are so eligible within four months from the date of receipt/production of the copy of this order. The appeals stand disposed of with the aforesaid observation and directions to the appellant - State and its authorities. There shall be no separate orders as to costs."

4. It is reported that in the case of the respective petitioners also the concerned Department have already sent a proposal to grant the benefits of the scheme as contained in the Government Resolution dated 17/10/1988 and whatever the benefits, which may be available to the respective petitioner, considering the decision of the Hon"ble Supreme Court in the case of PWD Employees Union and Ors (Supra), shall be conferred and the benefit of the same shall be given to the respective petitioners within a period of three months from today.

5. Considering the above, the concerned respondents are directed to grant the benefit of the scheme as contained in the Government Resolution dated 17/10/1988 to the respective petitioners considering the observations and the directions of the Hon"ble Supreme Court in the case of PWD Employees Union and Ors (Supra) and shall confer and grant the actual benefits, inclusive of the arrears within a period of three months from today. Rule is made absolute to the aforesaid extent in each of the petitions. No order as to costs.