

(2010) 04 GUJ CK 0036

In the Gujarat High Court

Case No : Special Civil Application No. 16514 of 2003

Gaurav S. Trivedi and Others

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 30-04-2010

Acts Referred:

Citation : (2010) 04 GUJ CK 0036

Hon'ble Judges : K. S. Jhaveri, J

Bench : Single Bench

Advocate : C.L. Soni, for the Appellant; Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Jhaveri, J.—The petitioner has challenged the action of not granting benefits of first and second higher grade on completion of nine years and eighteen years of service in the cadre of Deputy Mamlatdar.

2. The petitioner was originally appointed on the post of Clerk under the respondent No. 2 in the year 1969. Thereafter he was promoted to the post of Deputy Mamlatdar on 16th July 1983, but he was reverted to his original post because of closure of posts of Mamlatdar and other Mamlatdars were required to be accommodated. Thereafter in the year 1987 the petitioner was posted to the post of Deputy in the year 1989 and again he was reverted. However, from 1st July 1989 the petitioner was regularly promoted to the post of Deputy Mamlatdar and he continued on the said post till his retirement on 30th June 2003.

3. According to the petitioner he had made application in the year 2001 to grant him the benefits of higher grade. The said request was not considered. Again in the year 2002 the petitioner made another application, but no action was taken by respondent authorities. Thereafter also various representations were made, but the same were not considered by the respondent authorities and therefore the present petition has been filed.

4. Learned Advocate for the petitioner submitted that the petitioner was entitled to get the benefit of higher grade counting his service on the post of Deputy Mamlatdar from 12.12.1982 as on re-adjustment of the seniority re-adjustment dated 12.12.1982 was given to the petitioner for the post of Deputy Mamlatdar. According to him the juniors to the petitioner were given the benefits of higher grade and there was discrimination in the case of the petitioner. He further submitted that as per the Government Circular the petitioner was exempted from passing departmental examination and on that basis the higher grade could not have been rejected.

5. Learned AGP appearing for the respondent authority submitted that the petitioner is not entitled to get the higher grade scale and therefore his case was not considered. He submitted that the petitioner has not made out any case to grant him higher grade and therefore the present petition deserves to be dismissed.

6. Heard the learned Advocates for the respective parties and perused the relevant record minutely. Firstly, if there was any discrepancy in the seniority list and the petitioner was aggrieved with the same, he could have filed departmental appeal for rectification of the same. This was not done. It is pointed out that re-adjustment date cannot be taken into consideration for the purpose of higher grade scale. In the Resolution dated 16th August 1994 produced by the respondent along with the affidavit in reply clearly shows that there is a restriction on using re-adjustment date in para 3(12) thereof.

7. A contention has been raised that Mr. H.R. Patel has been given higher grade scale ignoring the case of the petitioner. However, it is borne out from the record that the said Mr. H.R. Patel had passed the Higher Revenue Qualifying Examination man for the post of Mamlatdar in the year 1998, whereas the petitioner has not passed the said examination till his retirement.

8. As per Resolution dated 16th August 1994, after completion of 9 years of service on 1.6.1987, such employee would get benefit of first higher grade and then he would be entitled to get second higher grade after completion of 18 years of service. In the case of the petitioner he has completed more than nine years in the cadre of clerk on 1.6.1987. The petitioner was recruited on 19.2.1969 for the post of clerk. After a lapse of more than 13 years of service he had passed the Lower Revenue Qualifying examination in the month of August 1982 which was compulsory for promoting to the cadre of Deputy Mamlatdar, the first promotion from the post of Clerk. Therefore, the contention of the petitioner cannot be accepted. In any case, re-adjustment date cannot be considered for the purpose of counting period of service and the respondent authorities have rightly rejected the case of the petitioner. In short the petitioner has failed to point out that he is eligible to get the higher grade scale in accordance with the aforesaid Government Resolution.

9. In the premises aforesaid, I do not find any merits in this petition. The same

is, therefore, dismissed. Rule is discharged with no order as to costs.