

(2022) 09 GUJ CK 0040

In the Gujarat High Court

Case No : R/Special Civil Application No. 16182 Of 2020

Jalamsang Natubhai Parmar

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 07-09-2022

Acts Referred:

Citation : (2022) 09 GUJ CK 0040

Hon'ble Judges : Biren Vaishnav, J

Bench : Single Bench

Advocate : Yogen N Pandya, Kurven Desai, HS Munshaw

Final Decision : Allowed

Judgement

Biren Vaishnav, J

1. Rule returnable forthwith. Mr. Kurven Desai, learned Assistant Government Pleader waives service of notice of Rule for the respondent No.1, while Mr. H. S. Munshaw, learned advocate waives service of notice of Rule for the respondent Nos.2 and 3.

2. With the consent of the learned advocates for the respective parties, the petition is taken up for final hearing today.

3. The prayer in this petition is to direct the respondents to give the benefits of GR dated 17.10.1988 and the benefits of 6th and 7th pay commissions.

4. This Court, by an order dated 05.08.2022 passed in Special Civil Application No.812 of 2022 held as under:

"1 Rule returnable forthwith. Learned counsels appearing for the respective respondents waive service of notice of rule on behalf of the respective respondents.

2 The petition pertains to the benefits of the 6th Pay Commission, 50% merger of Dearness Allowance, leave encashment and the benefits of the 7th Pay

Commission.

3 As far as the prayers with regard to 6th Pay Commission and 50% merger of Dearness Allowance is concerned, it will be governed by para 11(i) & (iii) of the order dated 21.12.20217 passed in Special Civil Application No. 18120 of 2016, which reads as under:

"11 XXX XXX XXX

(I) Respondents are directed to grant the petitioners the benefit of 6th Pay Commission on the lines as is granted to the similarly situated petitioners in Anand Bhausaheb Pawar (supra) as per judgment dated 18th October, 2016 read with the modified directions issued in Miscellaneous Civil Application No. 375 of 2017 and accordingly confer the benefits of 6th pay Commission for future effect with effect from 14th November, 2014;

XXX XXX XXX

(iii) Respondents are directed to grant the benefit of the State Government Resolution dated 08th October, 2007 to the petitioners as is granted in case of other daily-wagers working with respondent No.2 Board by merging 50% of the Dearness Allowance in the basic salary of the petitioners with effect from 01st April, 2004"

4 As far as the benefits of the 7th Pay Commission is concerned, the case of the petitioner for such benefits will be governed by an order dated 11.03.2022 passed in Special Civil Application No.13538 of 2020.

5 Accordingly, the petition is allowed for the prayers as aforesaid. The petitioner's case shall be considered in light of the decision in Letters Patent Appeal No. 325 of 2013 and in Special Civil Application No. 13538 of 2020 within a period of sixteen weeks from the date of receipt of copy of this order.

As far as the prayers for leave encashment and other benefits is concerned, liberty is reserved in favour of the petitioner to apply subject to the outcome of the decision of the Hon'ble Supreme Court in the pending Special Leave to Appeal. Direct service is permitted."

5. Mr. Munshaw, learned counsel appearing for respondent Nos.2 and 3 would submit that it is very specifically stated in the affidavit-in-reply that the benefit of revision of Pay Scale as per the recommendation of the 6th Pay Commission is payable to the petitioner with effect from 14.11.2014 as per the judgment delivered by the Hon'ble High Court in Letters Patent Appeal No.325 of 2018 and allied matters.

6. The respondent No.3 – Board shall pay the benefits of revision of pay scales as per the recommendation of the 6th pay commission and a proposal is to be sent to the Head Office of the Board at Gandhinagar through proper channel.

7. In view of above, the petition is allowed. The case of the petitioner shall be

considered in light of the decision in Letters Patent Appeal No. 325 of 2013 and in Special Civil Application No. 13538 of 2020 within a period of sixteen weeks from the date of receipt of copy of this order for all the benefits.

8. Rule is made absolute to the aforesaid extent. Direct Service is permitted. No costs.