(1985) 03 GUJ CK 0009

In the Gujarat High Court

Kiritkumar Kantilal Malani and Others APPELLANT

Vs

State of Gujarat and Others RESPONDENT

Date of Decision : 12-03-1985

Acts Referred:

Constitution of India, 1950 — Article 133, 309

Gujarat Sales Tax Department (Condition of Service Relating to Sales Tax Officers Examination) Rules, 1967 — Rule 4, 4, 7

Citation : (1985) 2 GLR 1077

Hon'ble Judges : N.H. Bhatt, J;J.P. Desai, J

Bench : Division Bench

Judgement

N.H. Bhatt, J.—This is a petition depicting the usual tug of war going on between various sections of the public servants, whose importance in our democratic society cannot be over-emphasised, though sometimes it occurs to us that people concentrate more on their rights and less on their duties, their energy and time having been focussed essentially on pay, pension and promotions, the well-known trio of public service.

2. This petition by 18 petitioners working as Sales Tax Inspectors under the State service is against the State of Gujarat and six of their colleagues because of the question of priority in the matter of promotion and the apple of discord is promotion to the post of the Sales Tax Officer from the post of Sales Tax Inspector held by these contesting parties. For the purpose of becoming eligible for promotion, there are the Recruitment Rules, which are at Annexure A, styled as Sales Tax Officer (Sales Tax Department) Recruitment Rules, 1969. Rule 2 of those Rules deals with two sources of promotion. One is by direct selection and the other is by promotion from the cadre of Sales Tax Inspectors. Appointment to the post of a Sales Tax Officer in the Sales Tax Department in the Gujarat Sales Tax Service Class II in so far as it goes by promotion mentions that "subject to the provisions made in the Rules for the Departmental Examinations prescribed by Government for non-gazetted Executive Staff of the Sales Tax Department", the promotion will go by the yardstick of proved merit and efficiency of the

people belonging to the amalgamated common cadre of Sales Tax Inspectors, Assistant Superintendent and Head Clerks in the Department We are not concerned with direct recruits. This means that the Rules for the Departmental Examination prescribed by the Government are in away a part and parcel of the Rules for promotion. The Examination Rules are also the Rules made by the Governor under Article 309 of the Constitution of India and they are styled as Gujarat Sales Tax Department (Condition of Service Relating to Sales Tax Officer''s Examination) Rules, 1967. Rule 4 of those Rules lays down that in order to be eligible for promotion as Sales Tax Officer, an Inspector shall be required to pass the examination, unless he has been exempted from passing it, within the period of six years from the date of his appointment, obviously as a Sales Tax Inspector. Rule 5 then lays down further details. The said Rule provides that the examination required to be passed under Rule 4 is to be passed in not more than three chances within the specified period and the specified period means the period specified in these Rules i. e. Rule 4 ''within which a person is required to pass the examination. Rule 5 lays down, therefore, that the examination in question is required to be cleared in three chances at the most, with one additional chance provided for a memher of the Scheduled Castes and Scheduled Tribes, as usual. Then Rule 6 deals with the effect of not passing the examination on the part of a direct recruit, with whom we are not concerned. Rules 7 and 8 which are material for our purposes in this petition, are reproduced below:

7. Where an Inspector who has failed to pass the examination within the period specified in Rule 4 and according to the chances available to him under Rule 5, he shall, notwithstanding such failure, be eligible to appear at any time in such examination on payment of an examination fee of thirty rupees and if he passes the examination, he shall be eligible for promotion to the post of Sales Tax Officer according to his original seniority in the cadre of Sales Tax Inspector.

Provided that he shall not be entitled to claim seniority over those who have been promoted as Sales Tax Officers before he become eligible for promotion to the post of Sales Tax Officer on account of their having passed the Departmental Examination earlier than he notwithstanding that he was senior to the persons so promoted in the cadre from which promotion was given.

8. An Inspector who passes the examination within the specified period and in specified chances, shall, on his promotion to the post of Sales Tax Officer, be assigned seniority over a person, if any, who although being junior to him in the cadre of Inspectors may have been promoted as a Sales Tax Officer earlier by reason of his having passed the examination earlier.

3. The above quoted Rules represent their form as it is holding the field since 1981, but it has undergone metamorphosis ''during the course of its journey from 1967 to 1981 twice. The proviso to Rule 7 originally was as follows:

Provided that he shall not be entitled to claim preference to those persons who may have passed the examination earlier.

The Rule, as it was then during the period between 1967 and, 1975, therefore, was that an Inspector who failed to pass the examination within the specified period and specified chances, was entitled to appear at any time thereafter on payment of examination fee of thirty rupees and if he passed the examination, he was eligible for promotion to the post of a Sales Tax Officer. This was a sort of a locua poenitentiae provided for right from the start, but the then proviso (above quoted) made it clear that he will not be entitled to claim preference to those persons who might have passed the examinations earlier. This proviso was the subject matter of a judgment of this Court speaking through M. P. Thakkar, J. as he them was, in the Special Civil Application No. 2055 of 1971, but we are not much concerned with it. All we can say is that the Rule, as it then was, made it clear that a late Latif - we use this denomination phrase for the Inspectors who do not pass the requisite examination with specified period and specified chances but who availed themselves of the substantive part of Rule 7 by that nomenclature because that was the nomenclature used by the learned Advocates appearing for both the sides in the course of their arguments and which was a nomenclature that found favour with another Division Bench of this Court dealing with analogous rules known as the Revenue Qualifying Examination Rules - could not claim preference over those who were not late Latifs. The proviso makes it clear that there was an upper hand given to those regulars qua those late Latifs, obviously in the matter of promotion.

4. The Government, however, felt that the Rule, as it was then, worked very harshly on the promotional prospects of those late Latifs and, therefore, a general guideline was sent to all Departments vide the Government resolution,-cum-circular, Annexure E dated 2-4-75. The Government suggested, as paragraph 3 of that circular-cum-resolution states, that the experience of the working of the pattern showed that it had resulted in a very harsh effect, and the promotional prospects even after passing the Departmental Examination by those late Latifs affected them very adversely. The Government realised that the effect was that a late Latif went on losing his eligibility rank for promotion in his substantive cadre, which Went on repeatedly changing every time his juniors cleared the examination earlier than he. The Government, therefore, suggested reshuffling of the Rule and the result was that in the year 1975 there came to be added in the substantive part of Rule 7 quoted above the words "according to his original seniority in the cadre of Sales Tax Inspector" at the end and the proviso that came to substitute the original proviso read as follows:

Provided that he shall not be entitled to claim seniority in the cadre of Sales Tax Officers over those who may have been promoted as Sales Tax Officers before he became eligible for promotion to the post of Sales Tax Officers on account of their having passed the departmental examination within the period specified in rule and according to the chances available to them under Rule 5.

5. Even a bare glance at this new proviso inserted in the year 1975 would show that there was a sort of a far-reaching change effected by this ''new proviso. As

said by us above, earlier proviso, so to say affected the seniority in the Sales Tax Inspector''s (sic Officers'') cadre in so far as it would be said to have a bearing on the question of promotion. It is truism to state that even amongst those who are found to be of proved merit and efficiency, seniority is the governing factor, even if not provided for. Instead of this adverse effect on the promotional prospects of late Latif, which was written large on the original proviso, the resultant effect was substantially diluted and it stated that a late Latif banking on his seniority in the cadre of Sales Tax Officer will not be permitted to claim seniority in the cadre of Sales Tax Officers over those persons, his erstwhile juniors, who had come to be promoted earlier because of their having cleared the examination, prior to the acquisition of eligibility by these late Latifs. This significant change effected by the rule-making authority is to be borne in mind for a variety of reasons, which we shall advert to as and when the occasion arises. In other words, qua the regulars who earned promotion, it was specifically provided that these late Latifs would not be able to claim seniority by putting forth their seniority in the lower cadre, namely, the cadre of the Sales Tax Inspector. Had the things remained in this stage, perhaps there would not have been any occasion for controversy because the proviso introduced in the year 1975 was very clear in its connotation and, therefore, easy of application.

6. Then we come to the year 1981 when the proviso, as we have quoted above in the beginning come to hold the field substituting the proviso introduced in the year 1975. The reasons, though ''not stated anywhere or if stated, at least not brought to our notice, appear to be clear in the background. Proviso introduced in the year 1975 stated that late Latifs would lag behind the regulars, who had earned promotion before those late Latifs became eligible for promotion. The new proviso introduced in the year 1981 goes a step forward and states or purports to state that a late Latif shall not be entitled to claim seniority over those who'' have been promoted as Sales Tax Officers before that late Latif became eligible for promotion to the post of Sales Tax Officer and those earlier promoted people have earned promotion on account of their having passed ,the departmental examination earlier than that late Latif. The change is too obvious to pass unnoticed. The proviso introduced in the year 1975 restricts itself to regulars. When this 1981 amendment came to be made, the words "according to his original seniority in the cadre of Sales Tax Inspectors" which was introduced in 1975 came to be retained. So, this proviso strikes a departure from the proviso which came to see the light of the day in the year 1975 and which was on the statute book till it came to be substituted or replaced by the instant proviso. The only inference, and a legitimate one, that can be drawn is that the purpose behind introducing this new proviso in the year 1981 was to still enlarge the scops of the proviso by lifting the restricted operation of that proviso of the year 1975. In the year 1975 it was stated that a late Latif will not be able to claim seniority over a person, who has been promoted as Sales Tax Officer before he acquired his eligibility for the same, but that person was a person who had cleared the examination and had, therefore, acquired eligibility within the

specified period and chances and also earned promotion. This concept which was patent is given a go-bye in the new proviso. All it says is that late Latifs earning eligibility beyond the specified chances and period may be eligible for promotion according to his original seniority in the cadre of Sales Tax Inspectors as per the substantive part of Rule 7 quoted above, but the proviso tells him that You, Mr. late Latif. we will not give you seniority in the higher cadre qua all those who have been already promoted prior to your acquiring eligibility for promotion to the post of Sales Tax Officer on their having passed departmental examination earlier than you and we shall not give countenance to your seniority in the lower cadre of Sales Tax Inspector". This is the normal, natural, and patent interpretation that can be had on the bare reading of the text. It is the settled legal principle of interpretation, and the foremost one also, that words of a statute or any rule are to be interpreted within their ordinary, natural meaning, unless there is something in the Scheme which militates against the acceptance of that natural, ordinary, normal meaning of the text of the law. Treating this as the yardstick and finding it resting firmly on the historical background and the obvious reasons that prompted the Government to issue the circular of April 1975, Annexure E followed by the amendment of the year 1981 and the so-called mischief or agony or frustration sought to be remedied by way of giving a locus poenitentiae to the late Latif, it is to be held prima facie, and in our view inevitably, that the idea behind this metamorphasis so to say is that those late Latifs, may be abounding in good number as per the standards prevailing in public life, might not rot and be a drug on the administration. Out of this compassionate ground, the benefit is extended, but its operation is sought to be restricted by providing that a late Latif will not be entitled to claim seniority, banking on his earlier seniority in the lower cadre, over those who have been fortunate enough to be promoted earlier than he because of their having passed the departmental examination earlier than he. During the period between 1975 and 1981, this was restricted to regulars so-called and the reason behind it could be understood, but in order to further augment, the chances of these late Latifs, it appears to have been provided that these late Latifs'' fortune will be adversely affected qua those late Latifs or regulars, who have been already promoted as Sales Tax Officer, earlier in point of time. This amendment inserted in the year 1981 cannot be without any significance. We have already said above the genesis of the provision that was there during in the years 1967 to 1975 and the proviso that held the field between 1975 and 1981. In this background, the normal and natural inference that could be drawn is that these late Latifs are warned against raising their seniority in the lower cadre for the purpose of projecting that seniority in the higher cadre also. They have been bluntly told that qua all those who have been promoted earlier because of their having cleared the examination earlier, earlier than the point of time when they (late Latifs) cleared the examination, they shall not be entitled to claim seniority. So, a wider net is cast with a view to see that even amongst late Latifs a longer term late Latif does not steal march over the shorter term late Latif so-called, meaning thereby a late Latif who has cleared earlier, but Rule 8 is there which has some repercussions as was presented on behalf of the petitioners. Rule 8 provides that a Sales Tax Inspector ;who passes the examination within the specified period and in specified ''chances, shall on his promotion to the post of Sales Tax Officer be assigned seniority over a person who, although being junior to him :in the lower cadre might have been promoted as a Sales Tax Officer earlier by reason of this having passed the examination earlier. It is open to a Sales Tax Inspector to earn that eligibility for promotion within specified chances and period, the chances are three in number obviously. Some studious or hard working Sales Tax Inspector may be able to clear this examination at the first attempt some may be able to clear at the second attempt and some may be able to clear at the third attempt. For the purpose of eligibility, they are all equals because three chances are permissible, and one who is speedier in clearing the examination may be complimented, but the rule making authority did not wish to put premium on that speedier achievement or success. Lest that man, whom we have called a regular who clears the examination at the second or third attempt. Rule 8 provides that for the purposes of determining seniority inter se of such people, in this higher cadre, this passing of the examination at the first or second, attempt will be of no consequence. In other words, seniority amongst these regulars will go according to their seniority in the lower cadre.

7. It was urged before us very vehemently, and we would not say without any justification also, that there was some anomalous situation likely to arise from the interaction of the provision to Rule 7 and Rule 8. We would illustrate that anomaly sought to be presented before us by reference to an illustration, which was cited before as and which was the illustration presented before the earlier Division Bench also. Say for example X, Y and Z are the three Sales Tax Inspectors, ''X'' is senior to ''Y'' and ''Y'' is senior to ''Z'' in the cadre of Sales Tax Inspectors. ''Z'' clears at the first chance the examination within the specified chance and period and gets promotion because the promotion was available at that point of time. Then ''Y'' clears the examination within specified chances and period, but at the third chance. Obviously, he could not claim promotion at the time ''Z'' came to be promoted because at that time he was hot eligible. If ''Y'' becomes eligible on clearing the examination at the third trial and comes to be promoted Rule 8 would step in and would make ''Y'' senior to ''Z'' in the cadre of the Sales Tax Officer. This far, there is no controversy. Even though ''Y'' is promoted later on, as he has earned his eligibility and his consequential promotion within the specified chances and period, by dint of Rule 8 he will have his seniority in the lower cadre reflected in the higher cadre also. But suppose ''X'' clears the examination at the 7th attempt. So admittedly he is a late Latif. If ''X'' gets promotion after ''Y'' gets it, because of the proviso appended to Rule 7, ''X'' will not be able to claim seniority over ''Y'' and, therefore, over ''Z'' also. Here also, no difficulties would arise. But suppose ''X'' who clears the examination at the 7th attempt becomes eligible for promotion. ''Y'' might have cleared the examination earlier than ''X'', but might not have been able to get promotion for want of availability of a post. In other words, a situation might

develop when both ''X'' and ''Y'' might be in the queue of expectants for promotion. Who will get the promotion out of the two ''X'' or ''Y'' ? Rule 7 would say that according to his original seniority in the cadre of Sales Tax Inspector, ''X'' will get promotion. The proviso will not come into play because ''Y'' has not by that time actually got promotion and thereafter ''Y'' comes to be promoted. As per Rule 8, ''Y'' will claim seniority over ''Z'' both being regulars. ''X'' having been promoted earlier than ''Y'' and being senior to ''Y'' in the original cadre of Sales Tax Inspectors, ''X'' will claim seniority over ''Y''. Under the very proviso, he would not be able to claim seniority over ''Z'' but if ''X'' can claim seniority over ''Y'' and ''Y'' in his turn can claim seniority over ''Z'' can it be said that ''Z'' can claim seniority over ''X'' also? Here is the apparent conflict. This specific illustration put to Mr. Mehta could not be resolved by him as we understood and in our view this is not possible also to be resolved easily. Taking advantage of this interaction of Rule 8 and the proviso to Rule 7, Mr. Tanna urged that Rule should be so interpreted that when ''X'' & ''Y'' are in the queue ''Y'' who is a regular should be given promotion first in preference to ''X'' and if this is adopted the above riddle could at least be solved because in that case ''X'' would not be able to claim seniority over ''Y'' in the higher cadre because of his having been promoted earlier. If this be so, no problem qua ''X'' and ''Y'' and conceivably arise. The question that arises for our determination in this petition in this situation is whether we should interpret the substantive provision of Rule 7 and the proviso to be so read as to mean by the alleged necessary inference that a regular always has precedence over a late Latif, obviously in the matter of promotion. This argument appears to be commendable prima facie or rather at first blush, but looking to the historical background of these Rules, we find that it is difficult for us to subscribe to it. We have already traced the genesis of this matter as it was made in the year 1967, as it was shuffled in the year 1975 and as it came to assume its present form in the year 1981. This preference, which was explicitly provided for in the year 1967 to 1975, was given a clear and forthright go-bye for the reasons which we have already mentioned above. This very preference cannot again figure in the scene through a backdoor. It was categorically and forthwith discarded. By a process of interpretation, it cannot again re-assert itself in the present scheme, whose object is quite evident. Rule 7 is the substantive provision and it in unmistakable terms gives the extended benefit to the late Latifs so-called. It provides that once a late Latif clears the examination, his right to claim promotion according to his original seniority in the cadre of Sales Tax Inspector stands revived or stands accrued to him. To adopt the argument Suggested by the petitioners would mean that the history of this rule-making process is to be ignored. It cannot be so done for two reasons. The text of the substantive provision of Rule 7 is so clear that it admits of no other interpretation. It is forthright in the expression of its intent and we would say that the proviso cannot go to control its, wider scope. The purpose of the proviso is a different one. Its purpose is not to limit its scope, but it is intended to rob the claimant of this benefit, namely, the late Latif of again raising the old bogey of his seniority in the lower cadre qua those who are promoted earlier because of their having passed the examination earlier. The scope of this proviso is limited to this extent and no further.

7A. If Rule 7 and proviso to the same are applicable only to late Latifs, how can a regular promoted earlier claim seniority '',over his late Latif ? There is no provision In the Rules governing seniority in higher cadre of regulars earlier promoted qua late Latifs senior to those regulars but promoted later. If a late Latif promoted earlier is to be given seniority over another late Latif senior to him but promoted later on, then naturally a regular also should be given seniority in the higher cadre over a late Latif senior to him in the original cadre but promoted later and that can be done only if proviso to Rule 7 is applicable to all, regulars and late Latifs. The difficulty which would arise in case proviso to Rule 7 is held to be applicable only to late Latifs cannot be overcome by saying that regulars will always get preference in the matter of promotion qua the Latifs, former forming one class and the latter another class.

8. In the case on hand, we are not concerned with the inter se seniority in the promotional cadre. As and when that question arises and if the proviso to Rule 7 and Rule 8 when working together present any difficulty, the same can be examined at that stage. Here, the petitioners are the regulars so-called who claim precedence over these respondents late Latifs in the matter of promotion and that is the issue before us. Can we give them that benefit even though the rule-making authority in the year 1975 once for all shut the doors against them ? If the anomaly of the type referred to above and illustrated by an example of ''X'', ''Y'' and ''Z'' arises in future, it may have effect on the valid existence of the proviso and/or Rule 8, but this is not the question before us and we are not prepared to allow that alleged anomaly to deter us from giving the normal and natural meaning to the operative part of Rule 7. In our view, this is inevitable and this is the only rational approach that can be taken in the facts and circumstances of the case.

9. Had the matter rested here, the judgment perhaps would have ended at this stage, but the Division Bench of this Court, consisting of P.S. Poti, C.J., as he then was, and S.B. Majmudar, J., had an occasion to examine, not the same Rules but analogous Rules, in Special Civil Application Nos. 4429 of 1983 and others and by dint to analogical support, Mr. Tanna tried to buttress his point before us. He went to the extent of saying that what the earlier Division Bench of this Court had held as a general ratio in respect of certainly not identical but analogous provisions it should apply to this case and the propriety demanded that if this Division Bench was inclined to take a view different from the one taken by the earlier Division Bench, the matter should go before a Full Bench and it would not be proper on our part to deviate from the view taken by the earlier Division Bench and pronounce the abovementioned conclusion of ours. We understand and appreciate the argument of Mr. Tanna, but that would not detain us any longer because the Rules, as they stand presently before us today and the Rules before that earlier Division Bench are not having the same

perspectives, though they deal with analogous situations, they do not deal with identical situations. That petition was amongst the Deputy Mamlatdars, who were all promoted prior to the filing of those various petitions, numbering 42, and the direct question that cropped up before that Division Bench was the question of seniority in that higher cadre. Placing our Rule 7 with Rule 7 of the Revenue Qualifying Examination Rules so popularly known in juxtaposition and placing Rule 9 of those Rules analogous to our present Rule 8 in similar set up, Mr. Tanna submitted that for all practical purposes, the Rules were identical and what the Division Bench held in that group of petitions disposed of by common judgment must necessarily be treated as the ratio of this High Court and in polite firmness, he submitted that we should ''follow that ratio and uphold the contention of the petitioner. Before the earlier Division Bench, there was no question about seniority in the lower cadre of clerks. The Division Bench says that "it is trite to say that so far as seniority in lower cadre of clerks is concerned, no question of losing the same arises as per the combined working of rules 4(1), 5(1), 6(1) and 7". Under our Rules also, the position is similar but with this additional factor that this seniority in the lower cadre is a binding guiding factor as and when a late Latif becomes eligible for promotion as per the amendment inserted in the year 1975 and which continues to hold the field. The words "according to his original seniority in the cadre of Sales Tax Inspectors" that were introduced in the year 1975 in main part of Rule 7 still continue to hold the field. This means and must mean that soon on clearing the examination, though belatedly, that is, beyond the specified chances and period. that late Latif, notwithstanding his failure on the earlier occasions, shall be eligible for promotion to the post of the Sales Tax Officer and shall be able to put forward his seniority in the cadre of Sales Tax Inspector for the purpose of promotion as it opens up then. Even before 1975 amendment, that appeared to be the position, as interpreted by M. P. Thakkar J., as he then was. in the case of Chandrakant Somchand Shah and Ors. v. State of Gujarat and Ors. 1977(2) S.L.R. 605. If we put Rule 7 of the Revenue Qualifying Examination Rules by the side of our Rule 7, the difference is at once perceptible. The words "according to his original seniority in the cadre of Sales Tax Inspectors" loom Jarget before us. Similar words are wanting in the Revenue Qualifying Examination Rules. So is lacking the historical background there. At no stage, such a situation had developed there. In view of these circumstances, though we are not in a position to deny absolutely the attempted support sought to be derived from the observation of the Division Bench by Mr. Tanna, we find that, two judgments operate in different realms in different context and in different set of Rules, though analogous but not identical. If the interpretation canvassed by Mr. Tanna and sought to be supported from the observation of the Division Bench is bad, we would be required to read by necessary implication the first proviso to Rule 7 of the Rules before us, meaning thereby that preference will be required to be given to regulars over late Latifs. This is clearly ruled out. In that view of the matter, we do not think that the observations of the earlier Division Bench of this Court on certain aspects and certainly favourable to Mr. Tanna''s viewpoint can lend any assistance to the petitioners. This is not a question of our disagreeing with the view of the Division Bench. Had it been a matter of applicability of the principles, we would have certainly treated ourselves bound by it, but we find on the analysis of the spectrum of the rules in the background that the two Rules have different objectives to be achieved. In other words, though they appear to be similar, they are distinct in their'' operations, if it be so the ratio of the Division Bench on certain aspects cannot be said to have been deviated by us, sitting as another later Division Bench of this Court and taking a view in conflict with the view expressed by the earlier Division Bench. It is not necessary for our purpose to divide the aspects into two distinct classes, namely, regular and other late Latifs to be differently treated. That question may arise only when the question of fixing seniority inter se in the higher cadre comes up. As and when it arises, it can be dealt with in accordance with law. By anticipating this we cannot try to undo what the rule-making authority has clearly purported to do in the form of redressing the grievance of those late Latifs, who cannot be complimented, but at the same time were not sought to be cursed by the rule-makers.

10. Before we part with this matter, we would like to refer to one possible contingency that was vividly before the mind of the rule-making authority. If the interpretation canvassed by Mr. Tanna is adopted, it would mean that as long as regulars are available, late Latif will not get a chance of promotion and they will be constantly pushed down and a station may develop in which what the rule-making authority wanted to give by enacting Rule 7 right from the time of the rule-making will be taken away with another hand making the compassionate provision of substantive Part of Rule 7 totally illusory. This was exactly what was passing in the mind of the Government, when it issued the guidelines, Annexure E, in the month of April 1975 and this is the grievance or agony that was sought to be redressed or removed. It is this background of the rule-making process that weighs with us, and in our humble view very rightly, and that is a distinguishing feature of this case qua the case before the earlier Division Bench.

We do not agree with Mr. Tanna that Rule 7, substantive part of the Revenue Qualifying Examination Rules dealing with confirmation and promotion to higher post is in any way stronger than the words "according to his original senority in the cadre of Sales Tax Inspector". We have already examined his another argument that there will be a conflict between the proviso to Rule 7 and Rule 8 and his submission, was that if this unavoidable conflict can be avoided by interpreting the rule differently, that should be preferred as a course of interpretation. We have examined this argument also. This is included in our discussion of the problem.

11. result is that the petition fails and stands rejected. Rule is discharged with no order as to costs. At the request of Mr. Tanna, the interim order passed by this Court shall continue to operate for a period of three months from today to enable the petitioners herein to have further recourse in accordance with law, if any. Mr. Tanna at this stage made an oral request for grant of a certificate under Article

133 of the Constitution of India. In our view there is a question of law of general importance, which requires to be decided by the Supreme Court. So, the oral request for a certificate under Article 133 of the Constitution of India is granted.

