
(2014) 02 GUJ CK 0131

In the Gujarat High Court

Case No : Special Civil Application No. 16568 of 2012 and Civil Application No. 982 of 2014

Rabari Mangabhai Devabhai

APPELLANT

Vs

State of Gujarat and 3 Ors.

RESPONDENT

Date of Decision : 07-02-2014

Acts Referred:

Citation : (2014) 02 GUJ CK 0131

Hon'ble Judges : C.L. Soni, J

Bench : Single Bench

Advocate : A.R. Thacker, Advocate for the Appellant; Ronak Raval, Asstt. Govt. Pleader, Advocate for the Respondent

Final Decision : Allowed

Judgement

C.L. Soni, J.—The petitioner has moved the aforesaid civil application for direction to the respondents to pass order of regularization in service from 9.11.1998 as per the order passed by this Court in Special Civil Application No. 3403 of 1998 and to pay all benefits available to the petitioner.

2. In the main petition, the petitioner has sought direction to regularize his services and consider him as permanent employee and to pay him regular salary and all consequential benefits from 9.11.1998 with interest at the rate of 18%.

3. The petitioner joined the service of the Forest Department from 16.1.1984. In view of the law pronounced by Hon'ble Supreme Court, daily wagers serving in the Forest Department are now covered under the Government Resolution dated 17.10.1988. Therefore, there appears to be no dispute that the petitioner shall be entitled to all benefits as per the Resolution dated 17.10.1988. In the petition earlier moved by this very petitioner, being Special Civil Application No. 3403 of 1998, learned Single Judge passed order on 9.11.1998 in the following terms:-

Rule. Heard learned counsel for the parties. The grievance voiced by the petitioner is that he has been denied benefit of the Government Resolution dated

17.10.1988. It is not in dispute that three persons junior to the petitioner within the same range have been given the same benefit. Affidavit-in-reply of the Deputy Conservator of Forest, Kutch (East), Division Bhuj, has been filed.

Having considered the matter, in my view, there appears to be no justified reason for not giving the benefit of the Resolution dated 17.10.1988 to the petitioner when the same benefit has been given to three persons junior to the petitioner within the same range.

In view of the aforesaid this Special Civil Application is allowed and it is directed that the petitioner shall be given benefit of the Government Resolution dated 17.10.1988. With respect to the arrears, it will be open for the petitioner to make appropriate representation. Rule made absolute to the aforesaid extent. Direct service permitted.

4. Learned advocate Mr. A.R. Thacker submitted that in the present petition, by interim order dated 5.12.2013, this Court had directed the respondents to place on record the details of the calculation as to how the amount of Rs. 2,66,989/- paid to the petitioner vide cheque dated 4.12.2013 was arrived at. Mr. Thacker stated that no such calculation has been placed on record.

5. In view of the above, the Court took up the main matter for final disposal.

6. It appears that before the above-said order was passed by this Court, the Additional Chief Conservator of Forest had already passed order dated 8.8.2013 for giving benefit of increase in Dearness Allowance and other benefits as per the resolution dated 17.10.1988.

7. As stated above, there was already order made by this Court on 9.11.1998 directing the State Government to give benefit of the Government Resolution dated 17.10.1988 to the petitioner. Unfortunately, no such benefit was conferred and the petitioner is constrained to move the present petition.

8. Considering the fact that the petitioner has not been given the benefit of the resolution dated 17.10.1988 though his three juniors were given such benefits as reflected in the order dated 9.11.1998 and considering the fact that the Additional Chief Conservator of Forest has taken decision dated 8.8.2013 for giving benefits under the said policy, the Court finds that there was no justification for the State authorities not to confer the benefits available to the petitioner under the above policy.

9. For the reasons stated above, the petition is allowed. The respondents are directed to confer all benefits available to the petitioner under the Government Resolution dated 17.10.1988 within a period of ONE MONTH from today. The petitioner shall be communicated calculation of the benefits when the benefits as per this order are made available to him.

10. If on receipt of the calculation as regards the benefits under the Resolution dated 17.10.1988, the petitioner finds that the calculation of the benefits

conferred upon the petitioner is not proper, it will be open to the petitioner to first approach the concerned authority and if his grievance is not redressed by the concerned authority, it will be open to the petitioner to move this Court.

11. Learned advocate Mr. Thacker though pressed for claim of interest on delayed payment of the benefits under the policy dated 17.10.1988, since entire calculation is not placed on record of this Court and not made available to the petitioner, it is not possible to go into the claim of the petitioner. Therefore, such claim is left open to the petitioner to agitate after the petitioner is conferred with the benefits as per the final direction given in this petition.

12. The petition is partly allowed. Rule is made absolute to the extent stated above.

13. Since the main petition is disposed of, no order on the Civil Application needs to be passed. The Civil Application stands disposed of.

14. A copy of this order shall be made available to learned Assistant Government Pleader Mr. Ronak Raval for its onward communication as per his request.