

(2023) 06 GUJ CK 0082

In the Gujarat High Court

Case No : R/Special Civil Application No. 18669 Of 2022

Ramjibhai Pitambarbhai Parmar

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 21-06-2023

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2023) 06 GUJ CK 0082

Hon'ble Judges : Mauna M. Bhatt, J

Bench : Single Bench

Advocate : Murali N Devnani, Sahil Trivedi

Final Decision : Disposed Of

Judgement

Mauna M. Bhatt, J

1. Rule returnable forthwith. Learned Assistant Government Pleader waives service of notice of Rule on behalf of the respondent – State.

2. This petition under Article 226 of the Constitution of India is filed with the following prayers: -

"A. YOUR LORDSHIPS MAY BE PLEASED TO admit this Special Civil Application.

B. YOUR LORDSHIPS MAY BE PLEASED TO allow the present petition by issuing writ of mandamus or any other writ in the nature of mandamus or any other appropriate writ, order or direction directing the respondent authorities to consider their entire period of service from the date of appointment till the date of retirement for the purpose of pension.

C. YOUR LORDSHIPS MAY BE PLEASED TO hold the said action on the part of respondents depriving the petitioner from the said benefits as arbitrary, illegal and contrary to law;

D. YOUR LORDSHIPS MAY BE PLEASED TO award any such other and further

relief as may be deemed just and expedient in the interest of justice.”

3. Heard learned advocate Mr. Murali Devnani for the petitioner and learned Assistant Government Pleader for the respondent – State.

4. Learned advocate for the petitioner submitted that the issue in the present petition pertains to not calculating the retirement benefits of the petitioner from the date of appointment. The prayers in relation to other benefits, if any, referred in this petition, is not pressed at this stage.

4.1 He further pointed out that the issue involved in the present petition which is in relation to counting the retirement benefits available to the petitioner from the date of their appointment. Learned advocate for the petitioner submitted that present petitioner was working with the respondent No. 2 department with more than 4 decades and retired upon attaining the age of superannuation and therefore considering his continuous service he is entitled for the benefits of pension and gratuity.

4.2 He pointed out that in the Government Resolution dated 24.01.2023, of Road and Building Department, Sachivalaya, Gandhingar the State Government has resolved as under:

“At the end of active deliberations, subject to the following conditions, it is hereby prescribed to pay gratuity to the daily wagers working in offices under various departments of the State within the maximum limit of 33 (thirty-three) years as per the Resolution dated 21.10.2020 of this Department:

(1) The concerned Department will have to check the eligibility of the daily wagers as per the Payment of Gratuity Act, 1972, of the Government of India.

(2) The order of this Department will also apply to the cases of retired/deceased daily wagers/work-charge employees after issuance of the resolution dated 24.03.2006 of this Department.

(3) The concerned Department will have to pay gratuity to the daily wagers/work-charge employees, for the services rendered before becoming permanent, upon verifying their eligibility as per the resolution dated 21.10.2020 of this Department. Whereas, the payment of gratuity for the pensionable services after becoming permanent will be made by the Director, Pension & Provident Fund Office. The Department will ensure that the gratuity is paid within the maximum limit of 33 years by counting both the services together and in any case no double payment is made.

(4) The payments made to the daily wagers/ work-charge employees under the Resolution dated 21.10.2020 of this Department before issuance of this order will not be reopened.”

5. The above factual position could not be controverted by learned Assistant Government Pleader for the respondent – State.

6. In view of the above said position, this Court deems it appropriate to direct the respondents to undertake scrutiny of the petitioner herein, and upon such scrutiny, if he is found eligible then a proposal shall be forwarded to the State Authorities in this regard and thereafter, the State Authority shall consider proposal of the petitioner herein expeditiously and in consonance with the State policy.

7. It is reported that in many of such matters, the concerned department has already moved a proposal to the State Government in this regard. However, wherever such proposal is not moved, the same shall be moved by the concerned department within a period of eight weeks from the date of receipt of copy of writ of this order.

8. The aforesaid exercise shall be completed within a period of twelve weeks from today.

9. With the aforesaid, the petition made absolute to the aforesaid permitted. stands disposed of. Rule is extent. Direct service is permitted.