

(2020) 01 GUJ CK 0055

In the Gujarat High Court

Case No : R/Special Civil Application No. 14216 Of 2018

Ramsinh Hirabhai Rajput

APPELLANT

Vs

State Of Gujarat & 2 Other(s)

RESPONDENT

Date of Decision : 07-01-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 01 GUJ CK 0055

Hon'ble Judges : N.V.Anjaria, J

Bench : Single Bench

Advocate : Sandip H Munjyasara, Ad Oza, Shivam Dixit

Final Decision : Disposed Of

Judgement

N.V.Anjaria, J

1. This petition which was disposed of by order dated 17th December, 2019, came up today on board upon a Note for Speaking to Minutes dated 26th December, 2019 filed by learned advocate for respondent No.3.

2. In the Note, it was pointed out that due to error of transcription, in paragraph 3, the following line has been wrongly transcribed.

"..... thereafter, the petitioner retired from respondent No.3 Sardar Patel University on 14th June, 2018"

3. The line ought to have been,

"..... thereafter, the petitioner removed from respondent No.3 Sardar Patel University vide order dated 29th November, 2017"

4. The order shall be corrected with the aforesaid corrections in so far as recitals of the sentence as above in paragraph 3 is concerned.

5. The order shall be reissued after the aforesaid corrections.

The Note for Speaking to Minutes is allowed and disposed of as aforesaid.

Date : 17/12/2019

1. Heard learned advocate Mr.Sandip Munjyasara for the petitioner, learned Assistant Government Pleader Mr.Manan Mehta for respondent Nos.1 and 2 whereas learned advocate Mr.A.D. Oza for respondent No.3 University.

2. By filing the present petition under Article 226 of the Constitution, the petitioner has prayed firstly to direct the respondent authorities to decide the representation dated 16th July, 2018 of the petitioner, copy of which is produced at Annexure-H as part of the petition. In the second place, it is prayed to issue direction to the respondent authorities to pay the retirement dues and other benefits on the basis of 35 years of

3. Petitioner was originally appointed on 18th February, 1980 as Junior Clerk in the Gujarat Slum Clearance Board. Having rendered services at different place thereafter, the petitioner retired from respondent No.3 Sardar Patel University on 14th June, 2018 upon reaching the age of superannuation. It appears that when the University addressed letter to respondent No.2 - Commissioner of Higher Education dated 09th May, 2018 seeking guidance regarding giving pensionary benefits to the petitioner, certain queries were raised.

3.1 It is the case of the petitioner that despite satisfactory explanation in respect of all the queries having been furnished in writing to the authority concerned, no heed was paid. As nothing yielded, petitioner made a detailed representation dated 16th July, 2018 requesting the authorities to confer the pensionary benefits. While the said representation is pending with respondent No.1, petitioner has filed the present petition wherein the principal prayer is to direct the competent authority to take a decision. In the aforementioned representation dated 16th July, 2018, petitioner has given details of his service record which is reproduced herein.

Sr. No.

Name of Institution

Designation

Period

Total number of years in service

Y

M

D

1

Gujarat Slum Clearance Board

Jr. Clerk

18.02.1980 to 15.04.1981

1

1

25

2.

Office of the Accountant General

Auditor

16.04.1981 to 29.01.1988

6

9

18

3.

North Gujarat University

Accountant

30.01.1988 to 10.06.1998

10

4

11

4.

Sardar Patel University

Chief Account Officer

11.06.1998 to 26.08.2002

4

2

15

5.

South Gujarat University

Registrar

27.08.2002 to 21.04.2003

0

9

24

6.

South Gujarat University

Ad hoc Registrar

22.04.2003 to 08.05.2003

0

0

17

7.

Veer Narmad South Gujarat University

Chief Account Officer

18.07.2004 to 18.02.2008

4

8

1

8.

Maharaja Krushna Kumar Sinhji Bhavnagar University

Registrar

19.02.2008 to 01.05.2016

9

2

13

9

Sardar Patel University

Registrar

02.05.2016 to 29.11.2017

1

5

28

Total

36

7

0

4. It was stated that the services rendered under the Slum Clearance Board was not liable to be counted for pension. Petitioner has claimed that excluding the said period, he is entitled to get the pensionary benefits in respect of 35 years and 05 months services put in by him. The petitioner has mentioned various provisions of law and the Resolutions passed by the Government for considering the service as qualifying service and also for condoning the break, if any.

5. When the representation is pending with respondent No.1 and the same awaits application of mind and consequential decision by the competent authority, at this stage, it is considered expedient by the Court to direct the respondents to decide the said representation.

6. Accordingly, the present petition is disposed of by directing the respondents to act through their competent authority to consider and decide the aforementioned representation dated 16th July, 2018 of the petitioner regarding petitioner's claim for grant of pensionary benefits on the basis of the services rendered by him, by taking such decision within a period of eight weeks from the date of receipt of the present order. In arriving at the decision, the competent authority shall take into account the total services of the petitioner and shall also apply the beneficial provision of law and the policy Resolution for counting the pensionary benefits.

6.1 If the petitioner is found entitled to pension, the pensionary benefits shall be released to the petitioner within a period of eight weeks from the date of rendering such decision.

6.2 It is, however, clarified that this Court has not expressed any opinion on merits of the case of the petitioner by making above observation and direction as above. It is entirely for the competent authority to consider the facts and service records of the petitioner and take decision on the grievance of the petitioner on merits and in accordance with law.

7. The present petition stands disposed of in the aforesaid terms. Notice is discharged.