

(2012) 02 GUJ CK 0090

In the Gujarat High Court

Case No : Special Civil Application No. 6032 of 2011

Satishchandra Vasudutt Shah

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 27-02-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 02 GUJ CK 0090

Hon'ble Judges : R.M. Chhaya, J

Bench : Single Bench

Advocate : S.J. Shah and Mr. N.D. Songara, for the Appellant; Rakesh Patel, AGP for Respondent 1, Notice Served for Respondent 2, 3 and Bhargav Karia and Asso. for Respondent 4, for the Respondent

Final Decision : Allowed

Judgement

Honourable Mr. Justice R.M. Chhaya

1. Rule. Mr. Rakesh Patel, learned Assistant Government Pleader waives service on behalf of respondent Nos. 1 and 2 and Mr. Bhargav Karia,

learned Counsel waives service on behalf of respondent Nos. 3 and 4. At the joint request of the learned Counsel appearing on behalf of the

respective parties and considering the fact that it is a matter relating to pensionary benefit, the matter is taken - up for final disposal forthwith. The

petitioner by way of this petition under Article 226 of the Constitution of India, has interalia prayed for the following reliefs:

(A) Your Lordships may kindly be pleased to admit and allow this petition.

(B) Your Lordships may kindly be pleased to issue a Writ of Mandamus and/or a Writ of Certiorari and/or any other suitable writ, order or

direction to direct the respondent to pay back wages for the period from

11.05.1995 to 05.01.2006 as per the order dated 18.11.1995 passed by this Hon"ble Court in Sp. C.A. No. 4110/1995 and also as per the directives of L.P.A. No. 739/1997 dated 30.11.2004.

(C) Your Lordships may kindly be pleased to issue a Writ of Mandamus and/or a Writ of Certiorari and/or any other suitable writ, order or

direction to direct the respondent to pay the difference of wages paid to other Jr. Clerks from 06.01.2006 to 30.04.2009.

(D) Your Lordships may kindly be pleased to issue a Writ of Mandamus and/or a Writ of Certiorari and/or any other suitable writ, order or

direction to direct the respondent to direct the respondents to pay all the retirement dues as per the Rules and Regulation along with prevailing rate

of interest and also pleased to direct the Respondents to fix the monthly pension from 30.04.2009 and pleased to direct to pay the arrears of

pension forthwith along with the interest at prevailing rate.

(E) Any other and further relief may kindly be granted as Your Lordships deemed fit, just and proper in the interest of justice.

2. It is the case of the petitioner that he was working as Junior Clerk with respondent No. 3 with effect from 7.12.1979 on the post reserved for

Ex. Serviceman. It transpires from the record of the petition that the services of the petitioner came to be terminated on 11.5.1995 on the ground

that the petitioner had not cleared the requisite pre-service examination as per the prevailing rules of the State Government which are also

applicable to respondent No. 3. The petitioner challenged the said order by way of Writ Petition being Special Civil Application No. 4110 of

1995 which came to be allowed by this Court (Coram : M.R. Calla, J (as he then was)) vide judgment and order dated 18.11.1995. It appears

that the said judgment came to be challenged by way of intra Court Appeal being Letters Patent Appeal No. 739 of 1997 which was rejected. As

the petitioner was not paid backwages even after lapse of 9 years from the date of the disposal of the Letters Patent Appeal, the present petition is

filed. The respondents have appeared and respondent No. 3 has filed a detailed Affidavit-in-Reply, wherein it is pointed out that the petitioner has

been paid the amount of backwages and the same is received by the petitioner. It is also pointed out by respondents and more particularly

respondent No. 3, that the pension papers of the petitioner are already

scrutinized, verified and have been sent to the Pension And Provident Fund Directorate vide communication dated 10.2.2012.

3. Mr. Songara, learned Counsel for the petitioner submitted that the petitioner has received an amount of Rs. 9,28,999/-, however, till date the amount payable towards gratuity has not been paid along with statutory interest.

4. Mr. Karia, learned Counsel appearing for respondent No. 3 has submitted that the said amount shall be paid on fixation of the pension. Mr.

Rakesh Patel, learned Assistant Government Pleader also submitted that the pension papers forwarded by respondent No. 3 shall be processed in

accordance with law and the final decision on the same shall be taken as expeditiously as possible. In view of the above, the respondents, more

particularly respondent No. 1 herein, i.e. State of Gujarat shall finalise the pension papers sent by respondent No. 3 as aforesaid vide

communication dated 10.2.2012 latest by 30.6.2012. It is, however, made clear that the concerned authority shall process and scrutinize the same

strictly in accordance with law and if any details are required, the petitioner shall furnish the same. Similarly respondent No. 3 as parent department

under which the petitioner was serving shall also furnish any such details, if asked by the concerned authority for fixation of the pension as directed

above. In view of the above direction, the petition is partly allowed. Rule made absolute to the aforesaid extent with no order as to costs.