

(2008) 02 GUJ CK 0013

In the Gujarat High Court

Case No : Letters Patent Appeal No. 49 of 2008 In Special Civil Application No. 5630 of 2007 With Civil Application No. 709 of 2008 In Letters Patent Appeal No. 49 of 2008

State of Gujarat and 3

APPELLANT

Vs

Arvindkumar T Tiwari

RESPONDENT

Date of Decision : 04-02-2008

Acts Referred:

Letters Patent Act, 1865 — Clause 15

Citation : (2008) 02 GUJ CK 0013

Hon'ble Judges : R.M. Doshit, J;K.M. Thaker, J

Bench : Division Bench

Advocate : M.L. Shah, AGP, for the Appellant;

Judgement

This Judgment has been overruled by : State of Gujarat and Others Vs. Arvindkumar T. Tiwari and Another, AIR 2012 SC 3281 : (2012) 8 SCALE 664 : (2012) 9 SCC 545 : (2013) 1 SCT 117 : (2013) 2 SLJ 11 : (2012) AIRSCW 5131 : (2012) 6 Supreme 705

R.M. Doshit, J.—Heard the learned advocate. This Appeal preferred under clause 15 of the Letters Patent arises from the order dated 2nd March, 2007 made by the learned Single Judge in the above writ petition.

2. By impugned order, the learned Single Judge has directed the appellant - State Government to reconsider the claim of the respondent - writ petitioner for compassionate appointment.

3. The respondent-writ petitioner is the son of one Triveniprasad Tiwari, an Assistant Police Sub-Inspector employed under the Director General and Inspector General of Police. The said Triveniprasad Tiwari passed away on 9th April, 1999 while in service. The petitioner, then 23 years old, applied for compassionate employment within few days thereafter. According to the petitioner, he had failed at standard VIII examination and he was eligible for

appointment in class-IV service as a Peon.

4. It appears that the said application was not processed for almost six years. In the meantime, by Notification dated 16th March, 2005, the Government of Gujarat substituted its existing rules for appointment to class-IV post in inferior service. Under the revised rules of 16th March, 2005, a candidate is required to have passed secondary school certificate examination. Relying upon the revised rules, the Gujarat Subordinate Service Selection Board, under its communication dated 3rd July, 2005, rejected the application made by the petitioner on the ground that he did not possess the requisite qualification of passing S.S.C. Examination.

5. Feeling aggrieved by rejection of his application, the petitioner filed the above petition before this Court. The learned Single Judge has, by impugned order, directed the appellants to reconsider the application of the petitioner in accordance with then existing policy, without being influenced by the revised rules of 16th March, 2005. We see no infirmity in the order made by the learned Single Judge. The Appeal is dismissed in limine. Civil Application stands disposed of.