

(2014) 04 GUJ CK 0107

In the Gujarat High Court

Case No : Misc. Civil Application (for Restoration) No. 920 of 2014 in Letters Patent Appeal No. 266 of 2013 in Special Civil Application No. 2400 of 2011

State of Gujarat and 5 Ors.

APPELLANT

Vs

Harsukhlal Mohanlal Bhatt

RESPONDENT

Date of Decision : 29-04-2014

Acts Referred:

Citation : (2014) 04 GUJ CK 0107

Hon'ble Judges : Bhaskar Bhattacharya, C.J.; J.B. Pardiwala, J

Bench : Division Bench

Advocate : Vacha Desai, AGP for Applicant Nos. 1-6, Advocate for the Appellant; Hasit H. Joshi, Advocate for Opponent No. 1, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

J.B. Pardiwala, J.—This is an application for review of our judgment and order dated 14th February 2014 passed in Letters Patent Appeal No. 266 of 1993 at the instance of the original respondents. By our order dated 14th February 2014, the respondent herein—original appellant in Letters Patent Appeal No. 266 of 1993 was held to be entitled to the senior scale with effect from 1991 in terms of the Notification of the State Government dated 16th August 1994. As the applicant no. 3 herein (original respondent no. 3, Director of Ayurved, Indian System of Medicine and Homeopathy) had already forwarded the proposal to the State Government for the grant of senior scale and as the same was pending before the Finance Department, we directed that the proposal of the applicant no. 3 herein (original respondent no. 3) be taken up for consideration within a period of four weeks from the date of our order and necessary order as regards the grant of senior scale with effect from 1991 be passed within two weeks thereafter.

2. Ms. Vacha Desai, the learned AGP appearing for the State of Gujarat submits that although this Court has held that the original appellant is entitled to the senior scale with effect from 1991 in terms of the Notification of the State

Government dated 16th August 1994, yet the Notification of the State Government dated 16th August 1994 would not be applicable to the medical officers. Ms. Desai would submit that to this extent the order passed by this Court needs to be modified. According to Ms. Desai, it is the Government Resolution dated 20th March 1991 that would be applicable but the same again would be applicable to the non-teaching staff. She submitted that the Government Resolution dated 21st March 1991 provides for grant of senior scale to 1/3rd officers of the original posts according to the sanctioned set up of Medical Officers (Ayurved), Class-II. It has also been submitted that the said Government Resolution was subsequently replaced by another Government Resolution dated 16th October 1999 on receipt of the 5th Pay Commission report and Government Resolution dated 27th February 2009 after the receipt of the 6th Pay Commission Report.

3. Ms. Desai submits that to the aforesaid extent the order passed by this Court dated 14th February 2014 be modified otherwise the authorities will not be in the position to comply with the directions issued by this Court.

4. Having heard the learned counsel appearing for the parties and having gone through the materials on record, it appears that Government Notification dated 16th August 1994 will have no application in the facts of the present case. It appears that the Government Resolution dated 16th August 1994 is applicable to the government employees drawing salary in the pay scale of Rs. 2000-3500/-, who would be entitled for the pay scale of Rs. 2500-4200/-. In the case before us, the respondent herein was already drawing salary in the pay scale of Rs. 8000-13500/- and thereafter the respondent prayed for senior scale with effect from 1991 which we have granted by our judgment and order dated 14th February 2014.

5. The only modification required is that instead of applying the Notification of the State Government dated 16th August 1994, it should be the Notification of the State Government dated 21st March 1991.

6. To the aforesaid extent, we allow this application and modify our order to the extent that the respondent herein (original appellant) is entitled to the senior scale with effect from 1991 in terms of the Notification of the State Government dated 21st March 1991. We clarify that we have not touched any other part of our judgment.

7. The State Government is directed to consider the proposal forwarded by the Director of Ayurved, Indian System of Medicine and Homeopathy, as indicated in our judgment dated 14th February 2014, and pass necessary orders as regards the grant of senior scale with effect from 1991 in terms of the Notification of the State Government dated 21st March 1992 within two months from today without fail.

8. The application is disposed of in above terms. However, in the facts and circumstances of the case, there shall be no order as to costs.