

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2772 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? YES

2. To be referred to the Reporter or not? YES

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3. Whether Their Lordships wish to see the fair copy  
of the judgement? NO

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? NO

5. Whether it is to be circulated to the Civil  
Judge ? NO

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JITENDRAKUMAR ARVINDBHAI PATEL

Versus

STATE OF GUJARAT & ORS

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Appearance:

MR PR THAKKAR for Petitioner

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CORAM : MR.JUSTICE S.K.KESHOTE

30/04/96

ORAL JUDGEMENT

The learned counsel for the petitioner has  
removed the Office objections in the Court.

Heard the learned counsels appearing for the  
petitioner.

It is difficult to appreciate the hot-haste in  
which the petitioner has approached this Court for the

reliefs prayed for in this Special Civil Application. Before approaching this Court with the prayer of giving the pay-scale of the post of Junior Clerk, the petitioner should have made a demand in respect thereof to the respondents. Only after the said demand has not been accepted, or after making of the demand, if the respondents are not taking decision thereon within a reasonable time, then there may be some justification in the action of the petitioner to approach this Court but not in the manner in which he has approached this Court presently.

The learned counsel for the petitioner states that petitioner had made representations to the respondents in respect of the grievance made by him in the petition. I do not find any material on the record in support of this contention. The petitioner has also mentioned in the writ petition that since 1990 he is continuously working as Daily Wager with the respondent No. 3 without any break. The question of parity in the matter of pay-scale on the ground of equal pay for equal work depends upon many factors to be considered by the respondents and one of the factors is that before accepting the claim, the sanctioned post must be available. Secondly, that in all respect, the work of petitioner and that of employees of same category are identical in all respects that is recruitment and other services conditions, working hours, qualification, experience and other service conditions, etc. etc. and all other matters on which respondents are in a better position to give consideration. If the petitioner was working since 1990 and in case he is doing the same work and discharging same liabilities, then what prevented him not to make representation for getting the regular pay-scale for four years. This delay on the part of the petitioner also suggested that he is not in continuous service or his services have been terminated. Be that as it may be, the fact remains that no demand has been made for the claim made by the petitioner in this writ petition to the respondents by him before approaching to this Court. In view of these facts, this writ petition has no substance and the same deserves to be dismissed. However, dismissal of this writ petition will not come in the way of the respondent to decide the case of the petitioner if he makes representation to them say within a period of one month from to-day. It is upon the respondents to decide the representation within two months from the date of the receipt of the representation and in case grievance of the petitioner is not legal, then reasoned order may be passed and a copy of which may be sent to the petitioner by Registered AD post.

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Prakash\*