

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6169 of 1991

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?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
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?
5. Whether it is to be circulated to the Civil Judge?

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M.S.PAWAR

Versus

DIST DEVELOPMENT OFFICER

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Appearance:

MR DC SEJPAL for Petitioner

None present for Respondent No. 1

MR YF MEHTA for Respondent No. 2

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30/06/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioner was appointed as a Cinema Operator in the office of the respondent No.1. While he was posted at Himmatnagar, a criminal case was lodged against him for offence of misappropriation of Rs.21937-75. That was the offence under sec.409 of I.P.C.. Under the order

of the criminal court dated 17th September, 1979, the petitioner was acquitted of the aforesaid offence. Before the said criminal case was lodged against the petitioner, he was placed under suspension under the order dated 3-6-1976. After his acquittal, the respondent No.1 passed an order dated 13-2-1980 reinstating the petitioner back in service. However, he was again placed under suspension in connection with the charges of not handing over the cinema instrument worth Rs.2283/-. A departmental inquiry has also been initiated on the aforesaid charge. The petitioner further stated that the criminal case has also been lodged of the aforesaid amount. In the departmental inquiry, the petitioner, after giving him the second show-cause notice, was ordered to be dismissed from the services under the order dated 2-1-1986. The petitioner filed an appeal against the aforesaid order of dismissal from services before the Additional Development Commissioner. Under the order dated 28th October, 1986, the appeal was partly allowed and the matter was remanded back to hold the fresh inquiry. The petitioner made a request to the respondents to reinstate him in view of the fact that the order of dismissal was set aside in the appeal. Under the order dated 27th January, 1987, the petitioner was ordered to be reinstated, but again he was placed under suspension in view of the fact that the departmental inquiry was to be initiated against him. In the inquiry, he was given a show-cause notice to show cause why he should not be given a penalty of withholding of four grade increments with future effect. The petitioner gave a reply to the aforesaid show-cause notice vide letter dated 13th June, 1990, and requested therein that he should be forthwith reinstated in service. He made a further representation requesting the respondent for his reinstatement, but when nothing has been done, he filed this Special Civil Application before this Court and prayer has been made for declaration of the action of the respondents to continue the petitioner under suspension for 14 years as ex-facie illegal, arbitrary, discriminatory without application of mind, unreasonable, oppressive and violative of Articles 14 and 16 of the Constitution. Further prayer has been made for the direction to the respondents to forthwith reinstate the petitioner with effect from the date of his suspension i.e. 3-6-1976.

3. After filing of this Special Civil Application, the petitioner has made an amendment therein and prayer has been made for the stay of the further operation of the order, annexure 'J' till the final disposal of the Special Civil Application. Under the order, annexure

`J', subsistence allowance which the petitioner was receiving has been ordered to be reduced from Rs.300/- to Rs.200/-. The petitioner also filed a Civil Application No.2265/95 for grant of interim relief, but the petitioner was not granted any interim relief in the said Civil Application.

4. Both the counsel for the parties are unable to say what ultimately has resulted in the departmental inquiry initiated against the petitioner. The counsel for the parties are also unable to say whether the petitioner has been reinstated in service or not. From the facts stated in the C.A. No.2265/95, it comes out that the petitioner has been superannuated by the respondents subject to the departmental inquiry pending against him. So it is clear that the inquiry initiated against the petitioner was not completed till the filing of the aforesaid C.A.. That C.A. has been filed by the petitioner before this Court in the month of September, 1995. The action of the respondents not to complete the inquiry for all these years is certainly arbitrary and it has to be deprecated. The departmental inquiry against the delinquent employee should be completed within a reasonable time and the period which has been taken by the respondents in the present case cannot be said to be a reasonable time. The respondents have sat over the matter for years together. The respondents have not given out any reason what to say a good reason to delay the completion of the departmental inquiry against the petitioner. The petitioner has already attained the age of superannuation.

5. So, the interest of justice will be met in case this Special Civil Application is disposed of with the direction to the respondents to complete the inquiry initiated against the petitioner within a period of three months from the date of receipt of certified copy of this order. The Special Civil Application and Rule stands disposed of in the aforesaid terms with no order as to costs.

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