

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5621 of 1982

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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VRIJALAL H TRIVEDI

Versus

VEJALPUR GRAM PANCHAYAT

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Appearance:

MR HR LATHIGARA for Petitioner

None present for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 28/02/97

ORAL JUDGEMENT

1. The petitioner who was working on the fixed salary of Rs.300/- as a wireman in the office of the respondent, filed this Special Civil Application and challenge has been made to the order annexure 'H' dated 24th December, 1982, under which his services were terminated.

2. The petitioner was appointed as part-time wireman

by the respondent Panchayat in the year 1977 and the copy of order has been filed as annexure 'A'. He was given the fixed salary of Rs.110/- p.m., but the petitioner has contended that it was later on increased to Rs.125/- p.m. The petitioner has come up with a case that under the resolution dated 30th June, 1981, of the respondent, the petitioner was made full time wireman on a fixed salary of Rs.300/-p.m. Under the notice dated 5th December, 1981, the petitioner was called upon to show cause why his services should not be terminated as he has failed to discharge his duties as wireman. Then comes the notice dated 18th May, 1982, annexure 'E' to the same extent. Ultimately when the petitioner has not improved his working, and his work remained to be unsatisfactory, under the order dated 24th December, 1982 his services were terminated. Hence, this Special Civil Application.

3. The counsel for the petitioner contended that the services of the petitioner under the impugned order has been terminated without giving notice or an opportunity of hearing to the petitioner. It has next been contended that the petitioner has not been given the pay-scale according to law, and as such, the action of the respondent to terminate his services, is illegal.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioner. It is not in dispute that the petitioner was appointed as part-time and this appointment was purely on urgent temporary basis. Nothing has been produced on record by the petitioner that he has been given the substantive and permanent appointment on the post of wireman. From the averments made by the petitioner in para No.4 of the Special Civil Application, though the resolution has not been filed by the petitioner, it comes out that under the said resolution the fixed salary of the petitioner has been increased from Rs.125/- p.m. to Rs.300/- p.m.. The status of the petitioner remained only of a part-time temporary employee. From the order of the termination of the services of the petitioner dated 24th December, 1982, it is clear that his work was not satisfactory and before termination of his services, he has been given sufficient opportunity by giving him notices from time to time, but still he has not improved his working.

5. Taking into consideration the fact that the petitioner was only a temporary part-time employee and as his work was not satisfactory the impugned order has been made and his services were terminated. The respondent was not required to give any notice or opportunity of

hearing to the petitioner before making of the order terminating his services as it is a case of temporary part-time appointment. The temporary employee has no right to hold the post. Similarly, the temporary service of the employee remains to be temporary until the same is made permanent by specific order or by some provisions of law, which is not the case here. It is not obligatory on the part of the employer to give any notice or opportunity of hearing to the temporary employee before his services are terminated and reference in this respect may have to the decision of the Hon'ble Supreme Court in the case of M.P.H.S.V.N. vs. Devendra Kumar reported in JT 1995 (1) SC 198. Here is a case where, as stated earlier, the petitioner's temporary appointment has been extended from time to time to give him an opportunity to improve his work, but when he has not improved his working, the action of the respondent to terminate his services under the impugned order cannot be said to be arbitrary or unjustified.

6. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated.

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