

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6139 of 1983

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?

ARVINDKUMAR MANGALDAS GOR

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

None present for Petitioner

MR VJ DESAI for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 31/01/97

ORAL JUDGEMENT

1. The matter was called out for hearing in the first round then in the second round and lastly in the third round, but none put appearance on behalf of the petitioner.

2. Perused the Special Civil Application and heard learned counsel for the respondents. The petitioner, a Senior Assistant working with the Gujarat Electricity

Board, filed this writ petition and prayer has been made for setting aside the order dated 11-11-1983 and 28-11-1983 and further direction to the respondents to consider the leave of the petitioner i.e. from 9th April, 1981 to 2nd June, 1981 as disability/commuted leave.

3. Under the aforesaid orders, the petitioner was directed to pay to the Board, salary of 55 days for the period from 9-4-1981 to 2-6-1981 which he had already drawn. Under the order dated 11-11-1983, the competent authority has not permitted to sanction the special half leave for 61 days with effect from 9-4-1981 to 2-6-1981 to the petitioner. Annexure 'A' is the office order dated 18th August, 1982 under which 23 days leave was sanctioned as commuted leave, the period relevant is 16-3-1981 to 8-4-1981. The leave for the period from 9-4-1981 to 2-6-1981 was sanctioned as leave without pay, as there was no leave in the account of the petitioner.

4. The petitioner was himself the drawing authority and he has drawn the salary for which he was not entitled. After the order dated 18th August, 1982, the petitioner has to returned the salary for the period for which the leave without pay has been sanctioned. The petitioner cannot be allowed to retain the benefits for which he was not otherwise entitled.

5. From the reply of the Board, it is clearly borne out that the case of the petitioner for grant of leave has been considered from all possible angles, but the leave to the extent as prayed for by him, could not have been granted. Taking into consideration his ailment, whatever leave, permissible to be granted, has been granted by the Board. The petitioner has no case whatsoever in his favour.

6. This Special Civil Application is dismissed. Rule discharged. Interim relief granted by this court stands vacated. No order as to costs.

zgs/-