

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 566 of 1995

with

Civil Application No.9764 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgement?-No.
2. To be referred to the Reporter or not?-No.
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.

SHANTILAL MARTAJI KHARADI

Versus

STATE OF GUJARAT

Appearance:

MR SM MAZGAONKAR for Petitioner

Mr.A.J. Desai, A.G.P., instructed by

MR DA BAMBHANIA for Respondent No. 1, 2

CORAM : MR.JUSTICE R.BALIA.

Date of decision: 30/04/97

ORAL JUDGEMENT

This petition comes up on orders on Civil Application filed by State of Gujarat and Commissioner of Sales Tax, respondents in the main petition, for vacating the interim relief granted by order dated 2nd September, 1995.

The petitioner is a Member of Scheduled Tribe and was appointed as Sales Tax Inspector by direct recruitment vide order dated 19th February, 1984. His name has been included on the panel of Sales Tax Inspectors recommended for promotion to the next higher post of Sales Tax Officer. Apprehending that since his name is at the bottom of the list along with other members of the Scheduled Tribe, the list may lapse before promotion is afforded to them in pursuance of the said select list, the present petition was filed for quashing the promotions granted vide Notification dated 8.12.1994 out of the said select list and for restraining the respondents from preparing any other select list for promotion to the posts of Sales Tax Officer (Class II) unless and until the present select list, which is in operation, is exhausted by giving appointments to the S.T. candidates at the bottom of the said list.

In reply to the main petition, it was stated by the respondents that when the D.P.C. met in May, 1992, there was no backlog of Scheduled Tribe candidates in the cadre of S.T.O. Class II. It was also averred that as a result of giving promotions to three Scheduled Tribe candidates, who were otherwise required to be reverted as a result of reconsideration of the promotions granted earlier, were allowed to continue, and the petitioner's case will be considered for promotion at the appropriate time. It was further stated in the reply affidavit that no person junior to the petitioner has been promoted and in terms of Resolution dated 22nd April, 1983, reserved category employees, who are at the bottom of the select list, are not promoted within one year from the preparation of the select list and in that eventuality, the select list is to be extended so that the employees of the Scheduled Caste and Tribe get chance for promotion and in that view of the matter, apprehension of the petitioner is ill-founded. That new select list would come into operation when their case is being considered for promotion.

In my opinion, in view of this reply, no cause of action survives for the petitioner to continue with this petition. Moreover, now that the State Government has moved this application, seeking vacation of interim order, permitting them to give promotions to the persons, including the petitioner, whose names have been included in the select list, the aforesaid conclusion is further fortified.

Accordingly, the petition is dismissed. Rule is discharged. Interim orders stand vacated. No order as

to costs.

No order on C.A. is required to be made as the same does not survive after decision of Special Civil Application.

(apj)