

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4992 of 1997

For Approval and Signature:

Hon'ble MS.JUSTICE R.M.DOSHIT

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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?
1 TO 5 NO

SOMABHAI BHIKHABHAI THAKORE

Versus

SARKHEJ-OKAJ NAGAR PANCHAYAT

Appearance:

MR RR VAKIL for Petitioner

MR PARESH UPADHYAY for Respondent No. 1

SERVED BY DS for Respondent No. 2, 3

CORAM : MS.JUSTICE R.M.DOSHIT

Date of decision: 29/08/97

ORAL JUDGEMENT

Leave to delete respondent No.3. Rule returnable today. Learned advocate Mr. Upadhyay appears and waives service of Rule on behalf of the respondent Nos. 1 and 2.

The petitioner who was serving as a Clerk in the respondent No.1 Panchayat had remained absent from service without leave for a long period from 1st September, 1995 to 3rd January, 1996. On 4th January, 1996 when the petitioner reported for duty, he was not permitted to do so. Feeling aggrieved, the petitioner preferred a writ petition being Special Civil Application No. 8305/96 before this court. Pending the said petition, under order dated 30th October, 1996, the petitioner was suspended from service. The said writ petition was disposed of on 4th March, 1997. This court directed the respondents to complete the disciplinary proceedings initiated against the petitioner within 8 weeks from the date of the submission of the petitioner's reply to the chargesheet. It was further directed that in the event the respondent-Panchayat fails to complete the disciplinary proceedings within the time stipulated, the order of suspension made on 30th October, 1996 would stand revoked. It appears that the Panchayat failed to complete the inquiry within the stipulated time. The petitioner, therefore, requested the Panchayat to revoke the order of suspension made against the petitioner and to permit the petitioner to join duty, however, the said request was rejected. Feeling aggrieved, the petitioner has preferred this petition.

The petitioner has prayed that since the respondent-Panchayat has failed to complete the disciplinary proceedings within the stipulated time, the disciplinary proceedings should be quashed and set aside and that the respondents be directed to permit the petitioner to join duty. Pending this petition, under order dated 25th July, 1997, the petitioner has been visited with penalty of removal from service. The petitioner's claim that the disciplinary inquiry should be quashed and set aside has been rejected by this court on 14th July, 1997. In view of the petitioner's removal from service, the petitioner's prayer to permit him to join duty, also can not be granted.

I am informed that the petitioner had submitted his reply to the chargesheet on 10th April, 1997. In view of the directions issued in Special Civil Application No. 8305/96, the disciplinary proceedings ought to have been completed on or before 5th June, 1997. Since, for whatever reason the Panchayat failed to complete the disciplinary proceedings by 5th June, 1997, the order of suspension stood revoked on 6th June, 1997. It was, therefore, imperative for the Panchayat to permit

the petitioner to join duty. In my view, the Panchayat has acted in high-handed manner in not permitting the petitioner to join duty inspite of the directions issued by this court. I am, therefore, of the view that the Panchayat should pay full salary to the petitioner for the period from 6th June, 1997 to 25th July, 1997. The Panchayat should also pay compensation to the petitioner for not complying with the orders of this court.

Petition is, therefore, allowed. The respondent No.1 Panchayat is directed to pay difference of salary to the petitioner for the period from 5th June, 1997 to 25th July, 1997. The Panchayat is also directed to pay sum of Rs.5,000/- to the petitioner by way of compensation as aforesaid. The aforesaid amount shall be paid to the petitioner within a period of four weeks from today. Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

JOSHI