

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 4886 of 1987

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 Judgment ?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the Judgment ?
 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?

RAJESHKUMAR B PANARA
VERSUS
STATE OF GUJARAT

Appearance:

MR AM DAGLI for the Petitioner
None present for the Respondent

CORAM : MR JUSTICE S.K. KESHOTE
Date of Decision : 30/09/1999

C.A.V. JUDGMENT

Heard the learned counsel for the petitioner.

2. On 20th February, 1987, the Executive Engineer, Sabarmati, issued an advertisement for Apprenticeship Linemen. As per this advertisement, 136 candidates were to be selected and taken as Apprentices in the trade of Lineman. In response to this advertisement, 2164 applications were received. The petitioner also applied. He was called for the selection. He was selected and he was taken as Apprentices in the Board under the order dated 23rd March, 1987. In pursuance to that order, he joined his duties as Apprenticeship Trainee in the trade concerned on 29th March, 1987. Under the order dated 29th May, 1987, annexure 'D' on the record of this special civil application, the petitioner was discontinued as Apprenticeship trainee.

3. Learned counsel for the petitioner contended that this amounts to termination of his service or Apprenticeship contract, which is civil consequence and it could have been done only where there exists some strong grounds as well as after giving notice and opportunity of hearing to the petitioner. In this case, neither the notice has been given nor opportunity of hearing has been given to the petitioner and this apprenticeship contract has been brought to an end, which is void-ab-initio.

4. It is not in dispute that this order has been passed by the respondent without giving any notice and opportunity of hearing to the petitioner. I am in agreement with the contention of the learned counsel for the petitioner that before passing such an order, the basic principles of natural justice needs to be followed by the Board. But the question does arise, whether only on this ground the order impugned in this special civil application deserves to be set aside.

5. It is to be made clear that it is not the case of termination of services of the petitioner. However, it is correct to contend by the learned counsel for the petitioner that it is a case of termination of apprenticeship contract of the petitioner. In reply to the special civil application, the respondents have come up with the case that the Apprenticeship contract of the petitioner has been terminated as he was overage. Reference in this respect has been made to the order of the Board dated 26th October, 1983 whereunder it is provided that only a candidate who has attained the age of 18 years and must not have completed age of 25 years is eligible for making the application for taking him as Apprentice trainee. However, relaxation is provided upto five years for SC/ST candidates.

6. Learned counsel for the petitioner contended that the petitioner belongs to the category of Socially and Educationally Backward Class and he is entitled for this relaxation upto five years in the age eligibility and if it would have been given then he was well within the age eligibility and this order of the Board to terminate his apprenticeship contract is illegal.

7. However, I find from clause (10) of the order of the Board dated 26th October, 1983 that this age relaxation upto five years is only available to SC/ST candidates. Even if the petitioner is taken to be a candidate belonging to Socially and Educationally Backward Class as this relaxation is not meant for that class of candidates, no benefit could be given to the petitioner. The petitioner has not controverted the facts stated in the reply to the special civil application and further he has not challenged the validity of the resolution dated 26th October, 1983. If we go by the resolution, the decision taken by the respondent is perfectly legal and justified and if this order is set aside only on the ground that the principles of natural justice have not been followed then what this court will do, to restore an illegal order of taking the petitioner as Apprenticeship Trainee though he was not otherwise eligible. Only on this technical ground where in substance the petitioner has no case whatsoever, I fail to see what useful purpose will be served in case the matter is sent back to the respondent to pass fresh order after giving notice or opportunity of hearing to the petitioner. The substance and not the form has to be taken care of by this court and if we go by the substance of the matter, the petitioner has no case on merits and only on this technical ground, the order which is otherwise perfectly legal and justified cannot be quashed and set aside.

8. 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. No order as to costs.

zgs/-