

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 745 of 1997

KOLI PATEL CHANDUBHAI LALJIBHAI

Versus

SECRETARY, DIST.PANCHAYAT SERVICE SELECTION COMMITTEE

Appearance:

Shri PC Kavina for the Petitioner

Shri HR Lathigara for the Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of Decision: 12/5/99

C.A.V. JUDGMENT

1. Heard learned counsel for the parties.

2. The petitioner prayed for issuance of writ of mandamus to the respondent to appoint him to the post of Gram Sevak (Multipurpose) in the Valsad District w.e.f. January, 1996 and further for grant of all consequential benefits follows therefrom.

3. The petitioner was called for interview and selected for the post of Gram Sevak (Multipurpose) in the month of October 1985. On 25.3.1986 the respondent informed the petitioner that he has been selected and that his name is there at serial No.32 in the select list. In respect of this selection, there is no dispute between the parties.

4. Some Special Civil Applications were filed in this Court which were came to be decided on 4.5.1994. This Court had given directions to the respondent to make appointment from select list prepared on 11.9.1985. The persons at serial Nos.3 to 39 from the select list in which the petitioner is there in serial No.32 were given appointments. This order of the respondent gave rise to

the cause to the petitioner to file representation for giving him appointment which he filed on 24.10.1995. The reply has been given to the petitioner by the respondent under its letter dated 17th November 1995. Those appointments are made of the candidates from serial Nos.1 to 29 of the select list. On 24.1.1996 the appointments have been made of the persons whose names were there in the select list below the petitioner. The petitioner belongs to the backward class also. His representation made early was not approved. Many of the persons who were given appointments under the order dated 24.1.1996 were not resumed their posts.

5. In reply to the Special Civil Application it is not disputed that the petitioner's number in the merit list was at Sr.No.32. Only contention raised that the petitioner submitted an application for seeking appointment under the reserved category of Baxipanch. For Baxipanch four posts are to be filled in and four persons of this category were given appointments accordingly. The petitioner cannot claim on the basis of his merit list No.32 against the general category.

6. Facts are not in dispute that candidates below in the merit list than the petitioner have been given appointments. So it is clearly a case of violation of Articles 14 and 16 of the Constitution. Explanation furnished for doing this by the respondent does not stand to any merits or substance. The petitioner belongs to Baxipanch category and he has to disclose this fact in his application. The petitioner could have got appointment on the basis of merits in the merit list as well as in the reserved category also. As per his merit in that category merely because the petitioner could not get appointment against the reserved category, that cannot be any ground to deny him appointment on the basis of his combined merits in the merit list. He can compete with general candidates also and if any candidates of general category below him in the merit list have been given appointments, his claim certainly sound, very strong and it deserves to be granted.

7. In the result, this Special Civil Application succeeds and the same is allowed. Respondents are directed to give appointment to the petitioner on the post of Gram Sevak (Multipurpose) in Valsad District. This appointment of the petitioner relates back to the date on which candidates immediately below to him in the merit list has joined the post. However, he shall not be entitled for the actual monetary benefits of the post.

He shall be entitled for actual monetary benefits of the post with effect from the date of this order. However, he shall be entitled for notional benefits from the date of his appointment i.e. for fixation of his pay etc. as well as seniority. Rule is made absolute in the aforesaid terms. The respondent is directed to pay Rs.2000/- to the petitioner the costs of this Special Civil Application.

(S.K.Keshote,J.)

(pathan)