

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6654 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : 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
1 to 5 No

HAMIRBHAI K CHAVADA

Versus

STATE OF GUJARAT

Appearance:

M/S NJ MEHTA ASSO. for Petitioners
MR BY MANKAD as instructed by MR SP HASURKAR
for Respondent.

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 30/11/1999

ORAL JUDGEMENT

Heard the learned Counsels for the respective parties.

2. The three petitioners have approached this Court with the case that they were duly registered with the Employment Exchange and were called upon to attend a preliminary interview/test for selection and appointment to the post of Unarmed Police Constables under the respondents. It is stated that their names were sent to

the District Superintendent of Police for further interview and they were interviewed on 3.5.1986. Their interview and physical tests were conducted along with the other candidates in June, 1986 and the office of the District Superintendent of Police had selected 103 candidates for the post of Unarmed Police Constables. Out of these 103 selected candidates, 70 candidates were asked to proceed for medical examination and the remaining 33 candidates were placed in waiting list, according to the petitioners. It is further stated that the remaining 33 candidates were placed in a waiting list and, out of them, 20 candidates were called for medical examination on 28.8.1986. It is contended in the petition that the serial numbers of the petitioners in the waiting list were changed and, although they were at serial Nos.9, 12 & 18 and called for medical examination on 28.8.1986 and declared fit, they were not appointed on the post of Unarmed Police Constables.

3. It is contended on behalf of the petitioners on the basis of these facts that they were arbitrarily denied appointments. It is further contended that there was no specific provision regarding life of waiting list and, in the light of the General Administration Department's circular dated 21.7.1981, it would not be open for the respondents to deny appointments to the petitioners. The petitioners have relied upon Rule 83 of the Police Manual to submit that the Superintendent of Police ought to have taken necessary steps for issuance of appointment orders to the petitioners.

4. As against the submissions made on behalf of the petitioners, the respondents have relied upon the affidavit of respondent No.4. It is stated in the said affidavit that, on 17.6.1986, the process of selection of Unarmed Police Constables had been initiated by respondent No.4 and, out of the 680 candidates interviewed and checked for physical fitness, 80 candidates were selected for appointments. It is stated that except for the said 80 candidates, no other candidate has been appointed and no waiting list was prepared after such appointments. The list of the selected candidates was prepared in order of their merits and the first 80 candidates were given appointments. It is further clearly averred that the petitioners were not amongst the first 80 candidates selected and appointed as Unarmed Police Constables. It is submitted on behalf of the respondents that the petitioners had no legal or fundamental right to be appointed simply because they were called for interview and found to be physically or medically fit. It is also submitted that, as per the

policy laid down in the Home Department of the State of Gujarat by way of resolution, the life of a waiting list would expire at the end of one year, which, in the present case, would be on 16.6.1987, even if a waiting list was prepared. Preparation of a waiting list is a seriously disputed fact and the petitioners have failed to produce any material on record on the basis of which it can be said that the waiting list as alleged was prepared. The circular dated 5.6.1982 issued by the State Government in this regard clearly stated that, if delay is caused in issuing appointment orders to selected candidates, while recruiting police constables, the date of the interview should be decisive for the purpose of age limit. In such cases of delay, the list to be prepared for issuance of appointment orders would remain in operation till another select list would be prepared or till the end of a year, whichever happened earlier.

5. Considering the arguments advanced on behalf of the petitioners, it appears that Rule 83 of the Police Manual regarding enrolment of constabulary is irrelevant as it only provides for the procedure to be followed where a candidate was provisionally selected for enlistment as a Constable/ Head Constable. It does not provide for or confer any right to appointment on being found fit. It is also not the case of the petitioners that any fresh recruitment was undertaken within one year of their interviews. Therefore, even assuming that a waiting list was required to be prepared and the names of the petitioners appeared in such waiting list, the petitioners could not have claimed appointments as a matter of legal right.

6. In this view of the matter, the petitioners having no legal right to be appointed and the respondents having filled up the 80 posts from the first 80 candidates in order of their merit, the petitioners cannot be granted the reliefs of appointments and other consequential benefits as prayed in the petition. The petition is, therefore, rejected and Rule is discharged with no order as to costs. Interim relief granted earlier stands vacated.

Sd/-

(D.H.Waghela, J.)

(KMG Thilake)

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