

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION NO 2565 OF 1999

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 Order ?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the  
fair copy of the Order ?

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?

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HF JOSHI

VERSUS

THE STATE OF GUJARAT & ORS.

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Appearance:

MR AS SUPEHIA for the Petitioner.

MR VB GHARANIA, AGP for the Respondents

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CORAM : MR JUSTICE S.K. KESHOTE

Date of Order : 30/04/99

C A V JUDGMENT

1. Heard learned counsel for the parties.

2. Rule. Mr.V.B.Gharania waives service of notice of rule on behalf of respondents.

3. The claim of the petitioner in this special civil application is that the revision of his pay in the revised pay scale as per the 5th Pay Commission Report has nothing to do with the pendency of any departmental inquiry against him. It is not in dispute that the 5th Pay Commission was given effect from 1/1/96. It is not in dispute that the petitioner's pay was also fixed in revised pay scale w.e.f. 1/1/96 under the order dated 7/2/98. But the grievance of the petitioner is that the arrears of the same has not been paid to the petitioner. To that extent the petitioner's grievance cannot be said to be unreasonable. It is hereby directed that in case the arrears of the pay fixation w.e.f. 1/1/96 till the date of the retirement of the petitioner has not been paid, then the same may be paid forthwith.

4. Similarly, the pendency of the departmental inquiry will not result in total denial of the retirement benefits to the petitioner. The respondents sanctioned the provisional pension of the petitioner and it is also not in dispute that he is getting the provisional pension regularly. But, his grievance is that the provisional pension has been fixed on the basis of the prerevised pay scale of the petitioner. The pendency of the departmental inquiry is nothing to do with the revision of the pension as per the revised pay scale, which the petitioner would have last drawn. The respondents are directed to revise the pension of the petitioner accordingly forthwith.

5. So far as the rest of the retirement benefits of the petitioner is concerned it is suffice to say that for time being it is not proper to give any other direction. However, the petitioner cannot be deprived of his retirement benefits by keeping the departmental inquiry pending for years together. In case, ultimately the petitioner is exonerated of the charges, he will get all the benefits. So this departmental inquiry has to be disposed of expeditiously. From the reply of the respondents, I find that in the departmental inquiry the final decision is awaiting from the Government and because of that all the claims of the petitioner have not

been cleared. I fail to see this slackness on the part of the officers of the State of Gujarat to sit over the simple matter for more than 3 years. Whatever the decision to be taken in the departmental inquiry by the Government it has to be taken expeditiously.

7. The special civil application is disposed of in the terms that the respondent-State of Gujarat is directed to pass final orders in the departmental inquiry, if any, pending against the petitioner within a period of 2 months from the date of receipt of the writ of the order and the compliance of the same may be reported to this court. As a result of the final decision of the departmental inquiry, the petitioner shall be given all the consequential benefits for which he may legally entitled within a period of 2 months next.

Rule is made absolute in the aforesaid terms. No order as to costs.

(S.K.Keshote, J.)

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