

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8278 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
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? : NO

ABDULMAJID ABDULSATTAR ZABAR

Versus

DIST DEVELOPMENT OFFICER

Appearance:

MR MUKESH R SHAH for Petitioner
MR HS MUNSHAW for Respondent No. 1

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 29/09/2000

ORAL JUDGEMENT

1. Abdulmajid Abdulsattar Zabar, petitioner, has
filed this petition with a prayer to issue appropriate
Writ directing the District Development Officer
respondent to regularise the service of the petitioner as
Driver by quashing and setting aside the action of the

respondent in giving artificial one day break by continuing him on 29th days basis by further directing the respondent, his agents and servants to regularise the service of the petitioner and to give him all benefits available to the regular employees;

2. The relevant facts giving rise to the present petition are as such that ;

2.1 The petitioner was appointed as a work charge Cleaner on 17/1/1981 and has worked upto 7/3/1983 in the fixed pay in the Agricultural Department. That the petitioner has worked for the period between 15/4/1983 to 21/8/1983 as a driver at Taluka Panchayat, Shehra. That the petitioner has further worked for the period between 28/2/1984 to 4/9/1984 in the Agricultural Department as a work charge cleaner. The petitioner has worked for the period between 5/9/1984 to 19/7/1989 as a work charge driver on 29 days basis continuously under the ICDS Scheme. Thereafter since 29/7/1989 till the date the petitioner has continuously worked as a work charge driver under the minor Irrigation Division under the Executive Engineer, District Panchayat, Panchmahals, and thus, the petitioner has, completed 16 years of service continuously working as a work charge driver under the Road and Building/Minor Irrigation Division and still the petitioner is paid salary in the pay scale of Rs.260-400, the salary which was prevailing at the time when the petitioner was appointed.

3. In the petition it was contended that as per the Circular of the State Government which is applicable to Panchayat Department and the Road and Building after period of 5 years of service, the daily wager is to be put in the minimum pay scale and is required to be paid the dearness allowance, 14 casual leaves, medical and provident fund deduction etc. It is further submitted that after a period of completion of 10 years the candidate is to be paid salary in the regular running pay scale with House Rent Allowance, Dearness Allowance etc. and after completion of 15 years of service, one increment is to be given and after completion of 20 years, two increments are to be released, etc.

4. It is further further submitted by the petitioner that even as per the circular dtd. 16/7/1987, the candidate who is on work charge establishment i.e. who is a work charge driver is required to be paid salary in the pay scale of Rs.950-1500 against the pay scale of Rs.260-400 and even thereafter by further resolution dated 17/1/1998, the said pay scale has been revised and

the work charge driver who is in the pay scale of Rs.950-1500 is required to be paid salary in the pay scale of Rs.3050-4590.

5. It was further submitted that the action of the respondents giving the pay scale of Rs.260-400 is absolutely illegal and arbitrary and the petitioner is required to be paid the salary as per the aforesaid circular of the State Government.

6. Mr. R.N. Shah, learned advocate appears on behalf of the petitioner and Mr. Munsha learned advocate appears on behalf of the respondent - Panchayat. This matter was filed somewhere in October, 1991 and thereafter this Court has admitted this matter and granted interim relief on 14/11/1991.

7. In view of the above, the petitioner has also filed additional affidavit in this behalf. In view of the aforesaid submissions, I direct that the respondent District Development Officer to adjudicate within a period of two months from the date of receipt of the Writ of this order about the legality and validity of the service condition of the petitioner in this behalf.

The petition is disposed of accordingly. Rule is made absolute to the aforesaid extent.

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