

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 563 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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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

ASHUBEN RAJABHAI TAPUBHAI

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

MR MG NAGARKAR for Petitioner
MR HS MUNSHAW for Respondent No. 1
NOTICE SERVED for Respondent No. 3
M/S PATEL ADVOCATES for Respondent No. 4

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 30/03/2001

ORAL JUDGEMENT

#. Mr.M.R.Mangde for Mr.M.G.Nagarkar, learned counsel
appears for the petition. None present for any of the

respondents.

#. This petition under Articles 14, 16 and 226 was filed in the year 1990 and admitted on 4.4.1990 with an interim direction to the respondents to continue the petitioner on the post of full time temporary Aya. The prayers made in the petition are to the effect that the petitioner should be appointed on regular permanent post of Aya and the respondents should be restrained from terminating the service of the petitioner and from making any appointment on regular permanent post of Aya at the dispensary situated at Barwala under the District Panchayat, Ahmedabad. It is the case of the petitioner in the petition that she has put in more than 23 years of service on a part time and fixed pay basis. The respondents have not filed any affidavit-in-reply despite having been granted time for that purpose.

#. Learned counsel for the petitioner submitted that during the operation of the interim direction as above, although the service of the petitioner has not been terminated, some other appointment is made on the post. At the most, the grievance that might have survived after the grant of interim relief would be that the petitioner was not absorbed on the regular permanent post of Aya. On the basis of the facts and averments on record and the relief of direction to appoint the petitioner on regular permanent post of Aya on full time basis cannot be granted as the same involves several issues of facts. However, if such claim or dispute survives and if the petitioner wants to pursue them, it would be open for her to raise an industrial dispute which, upon a reference can be properly adjudicated in the appropriate forum.

#. In these facts and circumstances, the petition is rejected with the observation that the service of the petitioner may not be terminated except in accordance with law. Rule is discharged with no order as to costs.

(D. H. WAGHELA, J.)

kks