

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9835 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgement?
  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

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NILESHKUMAR FULCHAND RAJPUT

Versus

STATE OF GUJARAT

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Appearance:

MR IS SUPEHIA for the Petitioner.  
Ms.Sonal Vyas, Assistant GOVERNMENT PLEADER,  
for Respondents No. 1-3  
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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 27/02/2002

ORAL JUDGEMENT

Father of the petitioner was serving as Assistant Sub Inspector of Police in Ahmedabad City. While in service, he expired on 31.10.1999. After his father's death, the petitioner applied for compassionate appointment by his application dated 15.12.1999. However, by order dated 3rd May, 2001, the request was rejected by the Department on the ground that the monthly income of the family of the deceased is Rs.4,467/-, which

is more than the prescribed limit of Rs.2,500/-. While calculating the aforesaid amount of Rs.4,467/-, the Department has taken into consideration the amount of pension also, which is Rs.3,187/-. In view of the various decisions of this Court, while calculating the quantum of income, the pension income is not required to be taken into consideration. One of the judgments is annexed at page 9, which is rendered in Special Civil Application No.6519 of 2001. In that view of the matter, the matter is required to be reconsidered by the Department.

The matter is accordingly sent back to the Department for reconsideration. While taking fresh decision, the Authority may not take into consideration the pension income, which the family of the deceased is receiving. Fresh decision may be taken in accordance with law.

Since the matter pertains to compassionate appointment, such decision may be taken within a period of three months from the date of receipt of the writ of this Court.

Rule is accordingly made absolute with no order as to costs.

27th February, 2002 ( P.B. Majmudar, J. )

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(apj)