

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12078 of 2001

WITH

SPECIAL CIVIL APPLICATION NO.603 of 2002

WITH

SPECIAL CIVIL APPLICATION NO.1733 of 2002

WITH

SPECIAL CIVIL APPLICATION NO.2840 of 2002

WITH

SPECIAL CIVIL APPLICATION NO.3206 of 2002

WITH

SPECIAL CIVIL APPLICATION NO.3673 of 2002

WITH

SPECIAL CIVIL APPLICATION NO.6149 of 2002

WITH

SPECIAL CIVIL APPLICATION NO.6747 of 2002

WITH

SPECIAL CIVIL APPLICATION NO.6964 of 2002

WITH

SPECIAL CIVIL APPLICATION NO. 7107 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
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 concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

CHANDRAKANT MALAJI VAGHELA (THAKORE) S/O LATE MALAJI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 12078 of 2001
MS SADHANA SAGAR for Petitioner.
Mr. K.B.Trivedi, Addl.Adv.General with
Mr.A.D.Oza, Govt.Pleader and Mr.L.R.Pujari, AGP for
Respondent No. 1-2
2. Special Civil Application no.603 of 2002
Mr. A.S. Supehia for petitioner.
Mr. K.B.Trivedi, Addl.Adv.General with
Mr.A.D.Oza, Govt.Pleader and Mr.L.R.Pujari, AGP for
Respondent No. 1-2
3. Special Civil Application no.1733 of 2002
Mr.A.S. Supehia for petitioner.
Mr. K.B.Trivedi, Addl.Adv.General with
Mr.A.D.Oza, Govt.Pleader and Mr.L.R.Pujari. AGP for
Respondent No. 1-2
4. Special Civil Application no.2840 of 2002
Mr.G.D.Acharya & P.R.Nanavatya for petitioner
Mr. K.B.Trivedi, Addl.Adv.General with
Mr.A.D.Oza, Govt.Pleader and Mr.L.R.Pujari, AGP for
Respondent No. 1-2
5. Special Civil Application no.3206 of 2002
Mr.A.S. Supehia for petitioner.
Mr. K.B.Trivedi, Addl.Adv.General with
Mr.A.D.Oza, Govt.Pleader and Mr.L.R.Pujari,AGP for
Respondent No. 1-2
6. Special Civil Application no.3673 of 2002
Mr.Mitul Shelat for petitioner.
Mr. K.B.Trivedi, Addl.Adv.General with
Mr.A.D.Oza, Govt.Pleader and Mr.L.R.Pujari,AGP for
Respondent No. 1-2
7. Special Civil Application nmo.6149 of 2002
Mr.I.S. Supehia for petitioner.
Mr. K.B.Trivedi, Addl.Adv.General with
Mr.A.D.Oza, Govt.Pleader and Mr.L.R.Pujari,AGP for

Respondent No. 1-2

Mr.H.S.Munshaw for respondent no.3.

8. Special Civil Application no.6747 of 2002

Mr.I.S.Supehia for petitioner.

Mr. K.B.Trivedi, Addl.Adv.General with

Mr.A.D.Oza, Govt.Pleader and Mr.L.R.Pujari,AGP for
Respondent No. 1-2

Mr. H.S.Munshaw, for respondent no.3.

9. Special Civil Application no.6964 of 2002

Mr.A.S.Supehia for petitioner.

Mr.H.S.Munshaw, for the respondent no.1

Mr. K.B.Trivedi, Addl.Adv.General with

Mr.A.D.Oza, Govt.Pleader and Mr.L.R.Pujari,AGP for
Respondent No. 2.

10. Special Civil Application no.7107 of 2002

Mr.A.S.Supehia, for petitioner.

Mr. K.B.Trivedi, Addl.Adv.General with

Mr.A.D.Oza, Govt.Pleader and Mr.L.R.Pujari for
Respondent No. 1.

CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE KUNDAN SINGH

Date of Order: 29/11/2002

ORAL JUDGMENT

(Per : MR.JUSTICE J.N.BHATT)

Rule in Special Civil Applications
nos.12078/2001, 1733/2002, 6149/2002, and 7107/2002. The
concerned Learned AGPs/Advocates waives service of rule
on behalf of the respondent-State and other respondents
respectively.

1. In this batch of petitions under Article 226 of
the Constitution of India, since identical issues and
common questions have been involved, upon request and in
view of peculiar facts, they are being taken up
simultaneously for adjudication by this common judgment.

2. In this group of petitions the only question
which requires consideration and adjudication is as to
whether the petitioners are eligible and entitled to
claim compassionate appointment on the ground that the
close relatives while in Government service expired
leaving the family in a very financial stringent and
strained situation. Each petitioner in this batch of
petitions has furnished material particulars so as to

claim compassionate appointment. Earlier, some of them had moved authorities by representation or otherwise to the Competent Authority for such an appointment which has not been favourably accepted for different reasons, mainly for the reason that the family income criteria in terms of the relevant scheme of compassionate appointment devised by the Government is not fulfilled. In other words, the relevant scheme at the relevant point of time prescribes certain financial ceiling as a criteria for the purpose of fixing eligibility for being appointed on compassionate ground. The petitioners, therefore, filed the petitions invoking the provisions of Article 226 of the Constitution of India.

3. Needless to mention that there is a design and desideratum behind incorporating or adopting the policy for compassionate appointment in the public service to the members of the dependent family of the Government employees who died in harness or during the service. In this set of petitions there is consensus that the cause of action like the death of the employee after 1-1-1996, and it is in this context it is rightly, jointly submitted by virtue of the Resolution dated 7-9-2002, the case of the petitioners are clearly covered. The said Resolution has been placed on record. It has been also clarified in the said Resolution that the income criteria modified from earlier criteria and limit is made operative and effective from 1-1-1996. There is also no doubt about the fact that the petitioners are covered by the said latest and updated Resolution of the Government dated 7-9-2002. Obviously, therefore, the case of the petitioners shall have to be considered in the light of the said Resolution if so far not considered. The decision of this Court in Letters Patent Appeal no.176 of 2002 and allied matters decided on 1-10-2002 (Coram: J.N.Bhatt & Kundan Singh,JJ) and Spl.C.A.no.9267 of 2001 decided on 6-5-2002 (Coram: J.N.Bhatt & Akshay H.Mehta,JJ.) are also directly applicable and attracted to the facts of the present case, and therefore, in our opinion all these petitions are covered by our earlier decisions and latest decision of the Government with regard to giving compassionate appointment to the employees who have died in harness or during the service by virtue of the Resolution dated 7-9-2002. Obviously, therefore, all these petitions are required to be allowed.

4. Consequently, the petitions are allowed and the respondents-authority concerned are hereby directed to consider their cases as expeditiously as possible, if so far not considered, latest by 31st March 2003, in the

light and in terms of the Government Resolution for the purpose, issued on 7-9-2002. Pursuant to these directions those cases which are not resolved in the stipulated time and in which compassionate appointments have not been given one week thereafter, the State of Gujarat shall report to the Registry of this Court without fail and the Registry in turn will report to this Court for further directions and orders that may be required. In case, if such cases are not dealt with and decided by 31st March, 2003, it will be open for the petitioners to move this Court for further directions or further orders appropriately and in accordance with law.

Rule is made absolute to the aforesaid extent with no costs. Interim relief earlier granted shall now assume no survival value.

(J.N.Bhatt,J.)

(Kundan Singh,J.)
stanley-jnb.