

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2234 of 2002

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 judgment?
  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 concerned : NO  
Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals?

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CHIRAG R. RANA

Versus

NARMADA WATER RESOURCES & WATER SUPPLY DEPARTMENT  
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Appearance:

MR RAJESH P MANKAD for the Petitioner.  
Mr.Kogje, Assistant GOVERNMENT PLEADER,  
for Respondent No. 1  
RULE SERVED for Respondent No. 2,4  
RULE NOT RECD BACK for Respondent No. 3  
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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 30/04/2003

ORAL JUDGEMENT

The father of the petitioner was serving as a

Tracer in the Narmada Water Resources and Water Supply Department. His father died on 28.8.1998 while he was in service. After his death, the petitioner, as the son of the deceased employee, submitted an application for getting compassionate appointment. In his application dated 8.1.2001, he has given break-up of the income of the family of the deceased. In the said break-up, particulars are given about the family pension received by the family, which is at the rate of Rs.1,440/- per month and the total income is stated as Rs.2,001/- per month. In his another application, which is at page 18, the petitioner has also given break-up, in which the income of family pension is quantified at Rs.1,455/-. The State Government, by its order dated 10th May, 2000, ultimately rejected the said prayer of the petitioner for giving him compassionate appointment on the ground that the income of the family of the deceased is exceeding the income criterion fixed by the Department. Thus, the State Government came to the conclusion that the petitioner cannot be given compassionate appointment. That order is at page 9, Annexure 'B'. However, in the said order, it is not stated as to on what basis the Department has come to the conclusion that the income of the family of the deceased is exceeding the prescribed limit. In various judgments, this Court has taken the view that while computing the income, the family pension received by the family of the deceased should not be taken into consideration. While computing the income, family pension income is required to be excluded. Here, the Authority has not given even a break-up in the order and no particulars have been given in the order. Apart from that, learned Advocate for the petitioner pointed out that the income criterion is given a go-by as per the Resolution dated 7.9.2002.

Under the circumstances, the matter is required to be sent back to respondent No.1 for fresh decision. While taking such fresh decision, the family pension received by the family of the deceased should not be taken into consideration. The respondent No.1 is accordingly directed to take fresh decision in connection with the application of the petitioner for getting compassionate appointment and such decision may be accordingly taken in accordance with law and expeditiously, at any rate, latest by 31st July, 2003. In case such decision is against the petitioner, it will be open for him to challenge the same again in accordance with law.

The petition is accordingly allowed to the aforesaid extent by quashing and setting aside the

impugned order at Annexure 'B'. Rule is made absolute accordingly, with no order as to costs.

30th April, 2003 ( P.B. Majmudar, J. )

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(apj)