

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 920 of 1987

For Approval and Signature:

HON'BLE MR.JUSTICE R.K.ABICHANDANI

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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? : NO
 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

GULABSINGH M VAGADIA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 920 of 1987
MR MR ANAND for Petitioner No. 1
..... for Petitioner No. 2-4
GOVERNMENT PLEADER for Respondent No. 1-2
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CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI

Date of decision: 27/02/2004

ORAL JUDGEMENT

In this petition, the petitioners who were

Scheduled Tribe employees were ultimately promoted to the post of Mamlatdar in the years 1985 and 1986 within their quota. However, later, though they were within their quota, they were sought to be reverted on the ground of their juniority in the post of promotion and by applying the principle of "last come first go". According to the petitioners, since their promotion was within their quota, they could not have been so reverted. The orders of their reversions were stayed by interim relief which was granted on 12/03/1987 in this petition and which has remained operative.

2. The question involved in this petition directly arose before a Division Bench of this Court in the case of R.K.Prajapati and Ors. V/s. State of Gujarat and Ors. reported in XXXIII (2) GLR 1422. In paragraph 57 of the judgment, the Court held that the general rule of seniority had to be departed from, so far as Scheduled Caste / Scheduled Tribe category of employees were concerned and that immunity can be claimed by such employees from reversion, even though they may be junior in the promotional cadre.

3. In view of the fact that the question involved in this petition is now directly covered by the decision of this Court in R.K.Prajapati (supra), the learned Asst. Government Pleader appearing for the respondent authorities states that the petitioners case will be considered and dealt with, as per the ratio of the said decision, if not already so dealt with. The learned Counsel appearing for the petitioners states that the point is now concluded and the case of the petitioners may be so considered and dealt with, as per the ratio of the said decision and that the petitioners will withdraw the suit if still pending.

4. The petitioners do not press for this petition and will withdraw the suit. It is accordingly directed that the case of the petitioners, if not already dealt with as per the ratio of the decision in R.K.Prajapati's case, will be considered and dealt with as per the said ratio reflected in paragraph 57 of the judgment, on the withdrawal of the suit by the petitioners, if still pending. Rule is made absolute accordingly with no order as to costs.

(R. K. Abichandani, J.)

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