

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10499 of 2000

HON'BLE MR.JUSTICE K.S.JHAVERI

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

J G RAVAL

Versus

STATE OF GUJARAT

Appearance:

MR VAISHNAV for MR HJ NANAVATI for Petitioner No. 1-7
MR LB DABHI, GAP, for Respondent No. 1-5

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 30/06/2004

ORAL JUDGEMENT

1. In this petition the petitioners have challenged the order of Executive Engineer, Ahmedabad City (R&B) Division, Ahmedabad dated 14th September 2000, whereby he has cancelled the order dated 30.12.1999 giving pay-scale of Rs.950-1400 to the petitioners.

2. The petitioners are working under the respondent no.4 as Pump Operators. They were originally appointed as daily wagers before 1978 and thereafter with effect from 21.8.1984 they were taken on the Work-Charge establishment. The petitioners were posted as Temporary Keyman with effect from 1.1.1991.

3. According to the petitioners, they possess second class qualification of Wireman and have passed appropriate course.

4. The Government issued a Resolution dated 17.5.1989 providing that those who had passed Second Class Wiremen Certificate Course of the Industries and Mines Department or who possessed an equivalent qualification would be entitled to the pay-scale of Rs.950-1400. In pursuance of the said Resolution, the Superintending Engineer, by an order dated 25.10.1999 directed the Executive Engineer to grant the benefits of the aforesaid Resolution dated 17.5.1989 to the petitioners. Accordingly the petitioners were given the said pay-scale by Office Order dated 30.12.1999. However, pursuant to audit objections dated 30.4.2000 and office remarks dated 20.4.2000, the respondent authority cancelled the Office order dated 30.12.1999 whereby the aforesaid pay-scale of Rs.950-1400 was granted to the petitioners.

5. Heard the learned counsel for the respective parties. Mr. Vaishnav for Mr. Nanavati submitted that the petitioners are holding Second Class Qualification of Wiremen and therefore in view of the Government Resolution dated 17.5.1989 they are entitled to get the pay-scale of Rs.950-1400 and the respondent had rightly granted the said pay-scale to them by Office Order dated 30th December 1999. Learned counsel for the petitioners further submitted that the impugned order has been passed without issuing any notice or without hearing the petitioners.

6. Mr. L.B.Dabhi, learned AGP, submitted that it is because of the objection raised by the Local Fund Examiner the order came to be passed. He further submitted that in this regard the Circle Office has asked for necessary guidance from the Government and such guidelines were not received by them.

7. The petitioners are admittedly holding Second Class Qualification of Wiremen and they have been working since 1978 in different capacity. It is only after

considering the Government Resolution dated 17.5.1989 the order dated 30.12.1999 granting the pay-scale of Rs.950-1400 to the petitioners came to be passed. There is no dispute that the impugned order cancelling the order dated 30.12.1999 has been passed without issuing any notice to the petitioners nor an opportunity of hearing was given to them. In view of the fact that the petitioners are holding Second Class Qualification of Wiremen and in view of Government Resolution dated 17.5.1989, without hearing the petitioners the impugned order could not have been passed. Merely because of audit objection, the benefits of pay-scale cannot be denied to the eligible employees. Therefore, the impugned order is clearly illegal and bad in law.

8. For the foregoing reasons, the petition is allowed to the aforesaid extent. The impugned order dated 14.9.2000 is quashed and set aside. It is held that the petitioners are entitled to the benefit of the pay-scale of Rs.950-1400 in accordance with the Resolution dated 17.5.1989 and as per the Office Order dated 30.12.1999. Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.]

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