

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION NO. 14285 of 2013**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE SMT. JUSTICE ABHILASHA KUMARI**

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| 1     | Whether Reporters of Local Papers may be allowed to see the judgment ?  | No |
| 2     | To be referred to the Reporter or not ?   | No |
| 3     | Whether their Lordships wish to see the fair copy of the judgment ?   | No |
| 4     | Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ? | No |
| 5     | Whether it is to be circulated to the civil judge ?   | No |
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DHIRUJI Z THAKORE & 6....Petitioner(s)

Versus

STATE OF GUJARAT & 2....Respondent(s)

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Appearance:

MR PH PATHAK, ADVOCATE for the Petitioner(s) No. 1 - 7

MR HARDIK SONI, LEARNED ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No. 1 - 3

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**CORAM: HONOURABLE SMT. JUSTICE ABHILASHA KUMARI**

**Date : 31/03/2014**

**ORAL JUDGMENT**

1. Rule. Mr.Hardik Soni, learned Assistant Government Pleader, waives service of notice of

Rule on behalf of the respondents. On the facts and in the circumstances of the case and with the consent of learned counsel for the respective parties, the petition is being heard and decided finally.

2. By preferring this petition under Article 226 of the Constitution of India, the petitioners have, inter-alia, prayed for the issuance of a writ of Mandamus, directing the respondents to extend the benefit of Government Resolution dated 17.10.1988 to them.

3. The brief factual background of the case is that the petitioners have been working on daily wages with the respondent-Forest Department of the State Government for the post more than ten to fifteen years. Insofar as the petitioners Nos.6 and 7 are concerned, there is an award of the Labour Court dated 11.05.1992 passed in Reference No.(IT) 386 of 1988, whereby the Labour Court has given them benefits as stated in the award.

4. According to the petitioners, the case is now covered in their favour, by the judgment of the

Supreme Court in ***State of Gujarat and others v. PWD Employees' Union*** reported in **2013(8) SCALE 579**, therefore, they are entitled for the benefits of regularisation as per Government Resolution dated 17.10.1988.

5. Heard Mr.P.H. Pathak, learned advocate for the petitioners and Mr.Hardik Soni, learned Assistant Government Pleader for the respondents.

6. Having heard learned counsel for the respective parties, it is clear that the prayers made by the petitioners would be covered by the judgment of the Supreme Court in ***State of Gujarat and others v. PWD Employees' Union (supra)***. The relevant paragraphs of the judgment are quoted hereinbelow:

"25. As per scheme contained in Resolution dated 17th October, 1988 all the daily wage workers were not entitled for regularization or permanency in the services. As per the said Resolution the daily wagers are entitled to the following benefits:

"(i) They are entitled to daily wages as per the prevailing Daily Wages. If there is

presence of more than 240 days in first year, daily wagers are eligible for paid Sunday, medical allowance and national festival holidays.

(ii) Daily wagers and semi skilled workers who has service of more than five years and less than 10 years are entitled for fixed monthly salary along with dearness allowance as per prevailing standard, for his working days. Such daily wagers will get two optional leave in addition to 14 misc. leave, Sunday leave and national festival holidays. Such daily wagers will also be eligible for getting medical allowance and deduction of provident fund.

(iii) Daily wagers and semi skilled workers who has service of more than ten years but less than 15 years are entitled to get minimum pay scale at par with skilled worker along with dearness allowance as per prevailing standard, for his working days. Moreover, such daily wagers will get two optional leave in addition to 14 misc. leave, Sunday leave and national festival holidays. He/she will be eligible for getting medical allowance and deduction of provident fund.

(iv) Daily wagers and semi skilled workers who has service of more than 15 years will be

considered as permanent worker and such semi skilled workers will get current pay scale of skilled worker along with dearness allowance, local city allowance and house rent allowance. They will get benefit as per the prevailing rules of gratuity, retired salary, general provident fund. Moreover, they will get two optional leave in addition to 14 misc. leave, 30 days earned leave, 20 days half pay leave, Sunday leave and national festival holidays. The daily wage workers and semi skilled who have completed more than 15 years of their service will get one increment, two increments for 20 years service and three increments for 25 years in the current pay scale of skilled workers and their salary will be fixed accordingly."

26. Considering, the facts and circumstances of the case, the finding of Gujarat High Court dated 29th October, 2010 in SCA No.8647/2008 and connected matters and the fact that the said judgment is binding between the parties, we are of the view that the appellants should be directed to grant the benefit of the scheme as contained in the Resolution dated 17<sup>th</sup> October, 1988 to all the daily wage workers of the Forest and Environment Department working for more than five years, providing them the benefits as per our finding at Paragraph 25 above. The appellants are directed

*accordingly. The judgment and order passed by the learned Single Judge dated 29th October, 2010 as affirmed by the Division Bench by its order dated 28th February, 2012 stands modified to the extent above. The benefit should be granted to the eligible daily wage workers of the Forest and Environment Department working for more than five years including those who are performing work other than building maintenance and repairing but they will be entitled for the consequential benefit w.e.f. 29th October, 2010 or subsequent date from which they are so eligible within four months from the date of receipt/production of the copy of this order. The appeals stand disposed of with the aforesaid observation and directions to the appellant-State and its authorities. There shall be no separate orders as to costs."*

7. The Review Petitions filed by the State Government against this judgment have now been dismissed by the Supreme Court, vide order dated 29.01.2014, passed in Review Petition (C) Nos.2826 and 2827 of 2013 in Civil Appeal Nos.5321-5322 of 2013.

8. In view of the above, there remains no impediment at all, on the part of the State Government in extending the benefits of the Government

Resolution dated 17.10.1988, to the petitioners subject to their fulfilling the requisite conditions.

9. In view of the above, the following order is passed:

The respondents shall examine the cases of the petitioners individually, and, if found eligible, shall extend the benefits of the Government Resolution dated 17.10.1988, to them, as per the directions of the Supreme Court. While doing so, the respondents shall also take into consideration the award dated 11.05.1992 passed in Reference No.(IT) 386 of 1988, by the Labour Court, in favour of petitioners Nos.6 and 7. The needful be done within a period of four months from the date of the receipt of a copy of this order.

10. The petition is allowed to the above extent. Rule is made absolute, accordingly.

**(SMT. ABHILASHA KUMARI, J.)**

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