

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/LETTERS PATENT APPEAL NO. 941 of 2021
In R/SPECIAL CIVIL APPLICATION NO. 6821 of 2018
With
CIVIL APPLICATION (FOR ORDERS) NO. 1 of 2024
In R/LETTERS PATENT APPEAL NO. 941 of 2021
With
R/LETTERS PATENT APPEAL NO. 168 of 2022
In
R/SPECIAL CIVIL APPLICATION NO. 9285 of 2019
With
CIVIL APPLICATION (FOR ORDERS) NO. 1 of 2024 In R/LETTERS
PATENT APPEAL NO. 168 of 2022
In
R/SPECIAL CIVIL APPLICATION NO. 9285 of 2019
With
R/LETTERS PATENT APPEAL NO. 180 of 2022
In
R/SPECIAL CIVIL APPLICATION NO. 16525 of 2018
With
CIVIL APPLICATION (FOR ORDERS) NO. 1 of 2024 In R/LETTERS
PATENT APPEAL NO. 180 of 2022
In
R/SPECIAL CIVIL APPLICATION NO. 16525 of 2018
With
R/LETTERS PATENT APPEAL NO. 226 of 2022
In
R/SPECIAL CIVIL APPLICATION NO. 131 of 2019
With
CIVIL APPLICATION (FOR ORDERS) NO. 1 of 2024 In R/LETTERS
PATENT APPEAL NO. 226 of 2022
In
R/SPECIAL CIVIL APPLICATION NO. 131 of 2019
With
R/LETTERS PATENT APPEAL NO. 324 of 2022
In
R/SPECIAL CIVIL APPLICATION NO. 14049 of 2017
With
CIVIL APPLICATION (FOR ORDERS) NO. 1 of 2024 In R/LETTERS
PATENT APPEAL NO. 324 of 2022
In
R/SPECIAL CIVIL APPLICATION NO. 14049 of 2017
With
R/LETTERS PATENT APPEAL NO. 481 of 2022
In
R/SPECIAL CIVIL APPLICATION NO. 139 of 2019**

With
**CIVIL APPLICATION (FOR ORDERS) NO. 1 of 2024 In R/LETTERS
 PATENT APPEAL NO. 481 of 2022**
 In
R/SPECIAL CIVIL APPLICATION NO. 139 of 2019
 With
R/LETTERS PATENT APPEAL NO. 546 of 2022
 In
R/SPECIAL CIVIL APPLICATION NO. 1403 of 2019
 With
**CIVIL APPLICATION (FOR ORDERS) NO. 1 of 2024 In R/LETTERS
 PATENT APPEAL NO. 546 of 2022**
 In
R/SPECIAL CIVIL APPLICATION NO. 1403 of 2019
 With
R/LETTERS PATENT APPEAL NO. 1151 of 2022
 In
R/SPECIAL CIVIL APPLICATION NO. 14041 of 2016
 With
**CIVIL APPLICATION (FOR ORDERS) NO. 1 of 2024 In R/LETTERS
 PATENT APPEAL NO. 1151 of 2022**
 In
R/SPECIAL CIVIL APPLICATION NO. 14041 of 2016

FOR APPROVAL AND SIGNATURE:

HONOURABLE MS. JUSTICE SANGEETA K. VISHEN

and

HONOURABLE MR. JUSTICE NIRAL R. MEHTA

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Approved for Reporting	Yes	No
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EXECUTIVE ENGINEER & ANR.

Versus

LALJIBHAI NANJIBHAI ZAPADIA & ORS.

Appearance:

MR HS MUNSHAW(495) for the Appellant(s) No. 1,2

MS FORAM TRIVEDI AGP - ADVANCE COPY SERVED TO GOVERNMENT
 PLEADER/PP for the Respondent(s) No. 2

DECEASED LITIGANT THROUGH LEGAL HEIRS/ REPRESENTATIVES
 for the Respondent(s) No. 1

MR NILESH M SHAH(780) for the Respondent(s) No. 1.1,1.2,1.3,1.4,1.5,1.6
 RULE SERVED for the Respondent(s) No. 3

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CORAM: HONOURABLE MS. JUSTICE SANGEETA K. VISHEN
and
HONOURABLE MR. JUSTICE NIRAL R. MEHTA
Date : 02/05/2025
COMMON ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE NIRAL R. MEHTA)

[1] Since the issues involved in all the captioned Letters Patent Appeals are identical and similar, with the consent of learned advocates appearing for the respective parties, appeals are taken up for final hearing and are being disposed of by this common oral judgment. For the sake of convenience, R/Letters Patent Appeal No.941 of 2021 is treated as lead matter.

[2] Present Letters Patent Appeal under Clause 15 of the Letters Patent is directed against the order dated 8th January 2019 passed by the learned Single Judge in R/Special Civil Application No.6821 of 2018, whereby, the learned Single Judge has directed the appellants herein to give benefit of the Resolution dated 17th October 1988 with effect from 1st April 1989 till 31st October 2010. Out of this period, the period from 1st April 1989 to 25th February 1999 was directed to be counted notionally for the purpose of extension of continuous benefits and the period from 26th February 1999 to 31st February 2010 was directed to be counted for giving actual benefits with difference of salary. The appellants herein are further directed to grant retirement benefits to the respondents herein – original petitioners including pension, gratuity, leave encashment. The arrears were directed to be paid within a period of eight weeks and if the payment is not made within a period of

eight weeks, the same shall carry interest at the rate of 6% from 18th August 2017. Paragraphs 6 and 7 of the judgment read thus:-

“6. Decision of this Court in Executive Engineer, Panchayat v. Samudabhai Jyotibhai Bhedi [2017 (4) GLR 2952] as well as another decision also of the Division Bench in State of Gujarat v. Ranabhai Ajmalbhai Harijan since deceased through legal heirs being Letters Patent Appeal No.1518 of 2017 decided on 10th April, 2018, comes to the help of the petitioner.

7. As a result of the above discussion, petition deserves to be allowed in terms of prayer in paragraph 20(B) and 20(C). The respondents are directed to give benefit of Resolution dated 17th October, 1988 with effect from 01st April, 1989 till 31st October, 2010. Out of this period, the period from 01st April, 1989 to 25th February, 1999 shall be counted notionally for the purpose of extension of continuous benefits and the period from 26th February, 1999 to 31st February, 2010 shall be counted for giving actual benefits with difference of salary. The respondents are further directed to grant retirement benefits to the petitioner including the pension, gratuity, leave encashment on the above basis and on the basis of completion of 27 years of service. All the dues arising by virtue of this order including the arrears shall be paid to the petitioner within a period of eight weeks from the date of receipt of writ of this order. If the payment is not made within the aforesaid time stipulated, it shall carry interest at the rate of 6% from 18th August, 2017 which is the date when the identically placed employee Pankhuben Punjabhai was treated for granting the benefit and the order was passed in her favour.”

[3] Perceptibly, following 14 similarly situated employees, had approached this Court by filing various writ petitions. The issue in some of the matters, has travelled before the Division Bench and in some, before the Apex Court. The issue, is almost settled in favour of the employees.

Sr. No.	Applicants' Name
1	Tidiben Panchabhai Gagani
2	Thakarshibhai Amarshibhai
3	Late Bachubhai Amarshibhai
4	Devjibhai Punjabhai Chavda
5	Sarvaiya Bhalabhai Jeshingbhai and others
6	Late Lavjibhai Bhudarbhai Parghi
7	Chikabhai Rupabhai Jhapadiya
8	Jagabhai Chhaganbhai Parmar
9	Hamirbhai Meghabhai Gohil
10	Late Laljibhai Nanjibhai Zapadia
11	Late Kashirambhai Nanjibhai Zapadia
12	Late Kanjibhai Lavjibhai Rathod
13	Danabhai Kalabhai Parmar
14	Parvatiben Khimjibhai Zapadia

[4] As aforesaid, the above-referred employees, have preferred writ petitions which have been allowed in their favour. The order of the learned single Judge has been unsuccessfully challenged before the Division Bench and before the Apex Court. So far as the employees at sr. nos.7, 11 and 12, i.e. Chikabhai Rupabhai Zapadia, Late Kashirambhai Nanjibhai Zapadia and Late Kanjibhai Lavjibhai Rathod are concerned, it is not in dispute that the judgment of the learned single Judge has been accepted by the State Government and no appeals have been preferred. So far as employee at sr.no.14 is concerned, Parvatiben Khimjibhai Zapadia Letters Patent Appeal no.972 of 2020 was preferred and the Division Bench, has passed the following order:-

“It is not in dispute that in a similar case between Laljibhai

Nanjibhai Zapadia vs. State of Gujarat and others the issue has attained finality by way of conclusion of Special Civil Application No.6821 of 2018 vide order dated 08.01.2019.

Once the said judgment attained finality, the learned Single Judge was right in extending benefits as contained in the judgment impugned in the appeal. Further, similarly situated other employees have been extended such benefits.

We do not find any infirmity in the order passed by the learned Single Judge. The appeal lacks merit and is accordingly dismissed. Consequently, connected Civil Application stands disposed of.”

[5] Similarly in the case of employee at sr.no.13, i.e. Danabhai Kalabhai Parmar and also in the case of Parvatiben Khimjibhai Zapadia, against the decision of the Division Bench of this Court in Letters Patent Appeals, Special Leave to Appeal (C) nos.2116 of 2022 and other allied matters are preferred before the Apex Court. The Apex Court, on 22nd January, 2024 has passed the following order:-

“After hearing learned counsel for the parties and considering the issue as decided regarding reinstatement and continuity, we find no ground to interfere with the impugned orders passed by the High Court. The Special Leave Petitions are, accordingly, dismissed.

Pending interlocutory application(s), is/are disposed of.”

[6] So far as employee at sr.no.9, i.e. Hamirbhai Meghabhai Gohil is concerned, R/Letters Patent Appeal no.508 of 2022 is preferred by the Executive Engineer and another, which was rejected by this Court vide judgment dated 03rd February, 2025 wherein the Division Bench in paragraphs, 3, 3.1, 4 and 5 has held thus:-

“3. What is apparent from the conspectus of facts is that the only ground on which the respondent was denied the benefit of the Government Resolution dated 17.10.1988 from his initial date of appointment was that the Labour Court vide award dated 29.03.2007 while examining the case of the present petitioner and the co-employee namely Danabhai Kalabhai in Reference (LCS) No.184 of 2000 had directed the respondent authorities to reinstate him on his original post but failed to record the direction with regard to continuity of service.

3.1 The co-employee Shri Danabhai Kalabhai had approached this Court by filing Special Civil Application No.18154 of 2015 claiming the same relief as claimed by the respondent herein and the said benefits were conferred upon him. Thereafter, the appellant had approached the Division Bench of this court by way of Letters Patent Appeal No. 485 of 2017 against the order passed in Special Civil Application No.18154 of 2015 in the case of the co-employee. The co-ordinate bench of this court confirmed the findings of the learned Single Judge and rejected the appeal.

4. Today when the appeal is taken up for hearing, Mr. Nilesh Shah, learned advocate for the respondent workman points out that the decision of the co-ordinate bench rendered in Letters Patent Appeal No. 485 of 2017 in the case of the co-employee of the respondent workman was challenged by way of an SLP before the Apex Court. The Apex Court vide order dated 22.01.2024 dismissed the appeal and confirmed the findings of the Division Bench.

5. Thus, the findings as well as the directions issued by this court in case of the co-employee who was also a party to the original reference filed by the respondent workman have become final and therefore the same shall govern the case of the present respondent as well. We therefore find that there is no merit in the appeal so as to deny the benefits to the respondent workman which already have been given to said Shri Danabhai Kalabhai.”

[7] We have heard learned advocate Mr. H. S. Munshaw for the appellants herein, learned advocate Mr. Nilesh Shah for the respondents herein – original petitioners and learned Assistant Government Pleader Ms. Foram Trivedi for the respondent – State

of Gujarat.

[8] At the outset, learned advocate Mr. Nilesh Shah for the respondents – original petitioners has submitted that the Hon'ble Apex Court has confirmed the decisions of the learned single Judge as well as the Division Bench of this Court in connection with the similarly situated employees and thereby, present respondents – original petitioners being identically and similarly situated, which aspect, is not in dispute and hence, the judgment of the learned single Judge, does not warrant interference. Moreover, in majority of the cases, the State Government has implemented and acted upon the judgment and nothing further survives to be done. Mr H.S. Munshaw, learned advocate, Ms Sejal Mandavia, learned advocate for the appellants in the respective appeals, could not dispute the above-referred orders passed and the fact that the employees concerned in the captioned group, are not similarly situated.

[9] Considering the totality of the facts and circumstances of the case, in our considered opinion, once the judgments concerning to the similarly situated employees as that of the present respondents – original petitioners, attained finality, in that event, in absence of any other independent or distinguishing feature pointed out, the judgment of the learned single Judge, does not warrant interference. Rather, it is conceded by the learned advocates for the appellants that the issue, is now settled upto to the Apex Court. Thus, present appeals does not deserved to be

entertained and are hereby, dismissed and are accordingly dismissed. No order as to costs.

[10] Consequently, connected Civil Applications stands disposed of.

[11] The appellants are directed to implement the decision of the learned Single Judge in its letter and spirit. Arrears be paid to the concerned employees within a period of four weeks' from today.

(SANGEETA K. VISHEN,J)

(NIRAL R. MEHTA,J)

CHANDRESH

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: CHANDRESH NATVARBHAI SIDDHAPURA(HC01109), PRIVATE SECRETARY, at High Court of Gujarat on 07/05/2025 16:31:19