IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 7273 of 2026

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UNION OF INDIA & ORS.
Versus
SHASHI BHUSHAN LAL S/O DINESH PRASAD LAL & ANR.
==
Appearance:
MR HARSHEEL D SHUKLA(6158) for the Petitioner(s) No. 1,2,3
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CORAM:**HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA**
and
HONOURABLE MR.JUSTICE J. L. ODEDRA

Date : 08/06/2026

JUDGMENT
(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)

1. The respondent herein, was appointed as a Tax Assistant on 29.11.2010 in the Central Excise Department. Upon his passing the requisite departmental examination, he was also promoted to the post of Senior Tax Assistant, by an order dated 29.06.2016.

2. However, the respondent thereafter, got selected as a Labour Enforcement Officer in the Government of Bihar, and he, therefore, submitted a technical resignation, which was also considered and accepted by his erstwhile employer by an order dated 23.12.2013.

3. It may be pertinent to state here that while accepting this technical resignation, there was a clear condition which stipulated that the respondent would be entitled to retain a lien

on his substantive post of Tax Assistant in his parent department i.e., in the Central Excise Department, for a period of two years from the date on which he was relieved, i.e., from 20.12.2013.

4. Within this window of two years, the respondent requested the authorities to revert him back to his parent department i.e., the Central Excise Department.

5. Incidentally, it is admitted by the learned Counsel for the petitioner that this request was made on 03.02.2014. This request for reversion was accepted by the department on 23.07.2014, and he was allowed to rejoin as a Tax Assistant in the Central Excise Department.

6. The respondent has, admittedly, resumed his duties on 15.09.2014 as a Tax Assistant i.e., within the window of two years provided for retaining his lien.

7. In the meanwhile, it appears that the Central Excise Department conducted a DPC for promotion from the post of Tax Assistant to Senior Tax Assistant and by an order dated 12.05.2014, it proceeded to promote Tax Assistants who were seniors and also juniors to the respondent, and this promotion was with effect from 12.05.2014.

8. As noticed above, the respondent made an application for reversion in the month of February, 2014 i.e., much before the order of promotion was granted to the other eligible Tax Assistants on 12.05.2014, and it was therefore clear that the department was aware that he had exercised his right to be reverted to his parent department, and he was lawfully entitled

to be reverted as a Tax Assistant.

9. Be that as it may, on his being reverted and resuming duties from 15.09.2014, the respondent staked his claim for a promotion, and this promotion was ultimately granted on 20.01.2016. It appears that this promotion was delayed because there was a process of merging the post of Senior Tax Assistant and Deputy Office Superintendent in the grade of Executive Assistant.

10. The respondent thereafter challenged this action of the department in granting him a promotion only, with effect from 20.01.2016. The Tribunal, by the impugned order, accepted his contention by placing reliance on the DoPT circular dated 26.12.2013 and has held that he would be entitled to be promoted from the date of his resumption of duties pursuant to the reversion i.e., from 15.09.2014. The Tribunal has also extended the consequential benefits for this period, that is from 15.09.2014 to 20.01.2016 and also directed that the seniority list be suitably modified to give effect to its order.

11. Being aggrieved by this order, the department has filed this petition.

12. As noticed above, the fact that the respondent was granted a lien on a substantive post of Tax Assistant for a period of two years from his relieving i.e., from 20.12.2013 to 20.12.2015, would fundamentally mean that the respondent had a right to regain his post as a Tax Assistant in the event he chose to come back to his parent department within two years. The effect of this granting a lien for a period of two years is that the respondent had a right to regain his original post and

consequentially, all the benefits that were attached to the said post.

13. The DoPT circular dated 26.12.2013 in relation to seniority reads as follows:

> ***"2.5 Seniority***
>
> *The tenure of periods spent in the past service does not get included in determining the eligibility for the next promotion. In case of employees who retain a lien on submitting Technical Resignation, in the event of their reversion to their previous job, the period spent in the new job would not be counted for calculation of minimum qualifying service for promotion in their previous job. The individual will however in case of his reversion to parent organization regain his seniority with effect from the date of his reversion."*

14. As could be seen from the underlined portion, in the case of reversion to the parent organization, the candidate would be entitled to regain his seniority with effect from the date of his reversion. This clause fundamentally reflects the right that is guaranteed because of the lien that the respondent held to his original post of Tax Assistant.

15. The Tribunal has taken the view that in the light of this particular clause, on the respondent resuming duties on 15.09.2014, his seniority would stand restored, and as a consequence, he would have to be promoted with effect from that particular date, and not from 20.01.2016.

16. It has held that merely because the DPC met subsequently or that his name was not published in the seniority list on 01.01.2015 and 01.01.2016 would really be of no legal consequence.

17. If the DoPT circular indicates that a person on reversion would regain his seniority, the non-appearance of his name in the seniority list would be of no consequence because it is assumed in law that his seniority would stand restored the moment he stood reverted and resumed his duties. The fact that the DPC met subsequently cannot also be a ground to deny the respondent the benefit of the promotion from the date that he was entitled to.

18. It must be stated here that this is not a case of a retrospective promotion, but it is a case of granting a promotion with effect from the date the respondent became entitled to i.e., the date on which he resumed his duties on reversion.

19. We are, therefore, of the view that the order of the Tribunal directing the respondents to treat him as promoted to the post of Senior Tax Assistant from the date of his reversion i.e., from 15.09.2014, and granting of all consequential benefits cannot be found fault with. The writ petition is therefore dismissed.

(N.S.SANJAY GOWDA,J)

(J. L. ODEDRA, J)

Mehul Desai