

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/LETTERS PATENT APPEAL NO. 599 of 2025
In R/SPECIAL CIVIL APPLICATION NO. 16536 of 2007
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/LETTERS PATENT APPEAL NO. 599 of 2025

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SABARKANTHA DISTRICT PANCHAYAT

Versus

ASSISTANT DISTRICT REGISTRAR, CO-OPERATIVE SOCIETIES & ANR.

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Appearance:

MS ARCHANA R ACHARYA(2475) for the Appellant(s) No. 1

JAYDEEP P PATEL(9201) for the Respondent(s) No. 2

MR NK MAJMUDAR(430) for the Respondent(s) No. 2

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CORAM:HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL

and

HONOURABLE MR.JUSTICE D.N.RAY

Date : 26/06/2025

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)

Having heard the learned counsel for the appellant and perused the record, pertinent is to note that the original petitioner/respondent herein who was appointed as an Assistant Instructor in Tailoring by order dated 09/10.07.1987, had applied for medical leave, which was granted by the competent authority for a period from 18.11.1991 to 26.07.1992. It seems that thereafter the petitioner did not report and sought for extension of leave by moving application dated 31.07.1992 in the prescribed format alongwith the necessary medical certificate. Again on 15.07.1993, the petitioner requested for grant of leave without

pay upto 26.08.1993 on the ground that he was undergoing treatment for medial issues. It is noted by the learned single Judge that while seeking for sanction of the leave, the petitioner had attached certificate of the Doctor countersigned by the Civil Surgeon, Himmatnagar.

2. However, on a fitness certificate given by the Civil Surgeon, Himmatnagar on 18/19.08.1994, the petitioner approached the authorities for permitting him to resume his duties. At that moment, the petitioner was sent to the medical board, which had examined the petitioner on 15.03.1995 and whereafter vide communications dated 27.03.1995 and 21.06.1995 explanation of the petitioner was sought for. The order of dismissal from service with effect from 18.11.1991 was passed on 20.02.1996 on the ground of misconduct for unauthorised absence by cancelling leave granted to the petitioner for the period from 18.11.1991 to 26.07.1992. Considering the rules governing the service of the petitioner, the learned single Judge records that the decision of the disciplinary authority in dismissing the petitioner from service by order dated 20.02.1996 is contrary to the service rules and is in violation of principles of natural justice. No disciplinary inquiry has been conducted and the disciplinary authority was not empowered to dismiss the petitioner from service without fullfledged disciplinary inquiry. It is also noted by the learned single Judge that once the leave was granted to the petitioner on medical ground for the period from 18.11.1991 to 26.07.1992, there was no justification for the authorities to cancel the same with retrospective effect. Such a decision was also taken without granting any opportunity of hearing to the

petitioner.

3. Though the learned single Judge refers to Rule 8 of Rules, 1997, having noted of the fact that order of dismissal is dated 20.02.1996, we have asked the learned counsel for the parties to place the correct service rules governing the service of the petitioner at the time of passing of the impugned order of dismissal. The Gujarat Panchayats Service (Discipline and Appeal) Rules, 1964, which were holding the field, have been placed before us. A perusal of the Rule 7 of the Rules, 1964 indicates that the penalty specified in Clauses 6 to 9 of the Rules, could have been inflicted upon a member of the Panchayats service only after holding a formal inquiry. Rule 5 provides for the penalties and Rule 7 provides the procedure for imposing the major penalties.

4. There is no dispute about the fact that dismissal from service is a major penalty and the procedure for imposing the penalty provided in Rules, 1964 applicable at the relevant point of time has not been followed. We, therefore, cannot attach any illegality to the decision of the learned single Judge.

5. The appeal stands dismissed, accordingly. No order as to costs. The Civil Application for stay is disposed of.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

C.M. JOSHI

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: CHANDRAKANT MAHADEV JOSHI(HC01073), Principal Pvt. Secretary, at High Court of Gujarat on 30/06/2025 14:44:32