

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO.5994 of 2025

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ARJANBHAI JOTIBHAI KHANT & ANR.

Versus

STATE OF GUJARAT & ORS.

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Appearance :

MR HB SINGH for the Petitioners.

MR ADITYA DAVDA, AGP for the Respondents.

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CORAM: **HONOURABLE MR. JUSTICE NIRZAR S. DESAI**

Date : 01/05/2025

ORAL ORDER

1. Mr. Aditya Davda, learned Assistant Government Pleader, upon instructions, states that the issue pertains to payment of leave encashment and the said benefit has already been extended to the petitioner No.1 - Arjanbhai Jotibhai Khant and he is already paid the same.

2. In view of the above submission, upon instructions, learned advocate Mr. H. B. Singh does not press this petition qua petitioner No.1. Petition stands disposed of as not pressed qua petitioner No.1 with a liberty to approach the Court in case of difficulty. Hence, now the petition survives only for petitioner No.2.

3. Rule, returnable forthwith. Mr. Aditya Davda, the learned Assistant Government Pleader waives service of rule on behalf of the respondents. By consent, the matter is taken up for final disposal.

4. The present Special Civil Application is filed praying for the following reliefs :-

“(A) To admit and allow this petition.

(B) Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents to forthwith extend the benefits of leave encashment and count their services from the date of joining till date of retirement for the purpose of pensionary benefits, till the time of retirement or death.

(C) During the pendency and final disposal of the present petition, YOUR LORDSHIPS may be pleased to passed an order directing the respondents to forthwith extend the benefits of leave encashment and count their services from the date of joining till date of retirement for the purpose of pensionary benefits, till the time of retirement or death."

5. The learned counsel for the petitioners submits that the respondent State Government has taken a decision to grant leave encashment to the daily wagers, who are granted the benefits of the Government Resolution dated 17.10.1988 and accordingly, the Government Resolution dated 07.10.2022 has been issued by the State Government. He submits that the Government Resolution dated 07.10.2022 has been issued pursuant to the order dated 01.09.2022 passed by the Hon'ble Apex Court in Special Leave

Petition (C) No.7229 of 2022.

6. The learned AGP submits that the case of the petitioners shall be considered in accordance with the Government Resolution dated 07.10.2022 and the leave encashment shall be granted to the beneficiaries of the Government Resolution dated 17.10.1988.

7. The learned counsel for the petitioners also submits that the petitioner No.2 is entitled to revision in pension as well as gratuity by calculating the benefits from the date of initial appointment. In support of his contention, he relies upon the judgment of this Court in case of **Executive Engineer, Panchayat (Maa & M) Department vs. Samudabhai Jyotibhai Bhedi [2017(4) GLR 2952]**. He submits that the present petitioner No.2 is similarly placed and hence, he is entitled to all the benefits from the initial date of appointment which has been followed by the respondents in the cases of various employees.

8. The learned AGP does not dispute that the State Government has accepted the decision of this Court in Samudabhai Jyotibhai Bhedi (supra).

9. In view of the above submissions, the respondents shall undertake a scrutiny of the case of the petitioner No.2 and if the petitioner No.2 is found to be eligible, then the respondents shall consider the proposal for grant of retiral benefits from the date of initial appointment as well as for the grant of leave encashment and pass appropriate orders within eight weeks from the date of receipt of this order in accordance with the prevalent Government

Resolutions in force.

10. With the aforesaid observations, the present Special Civil Application stands disposed of qua petitioner No.2. It is clarified that this Court has not examined the merits of the case. Rule is made absolute to the aforesaid extent. No order as to costs.

(NIRZAR S. DESAI,J)

SAVARIYA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: RAJNISH NARENDRA SAVARIYA(HC00179), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 01/05/2025 15:32:56