

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 6520 of 2026**

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GITABEN JAYANTIBHAI SOLANKI

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MS HARSHAL N PANDYA(3141) for the Petitioner(s) No. 1

MS. VANITA BHARWANI, GOVERNMENT PLEADER for the Respondent(s)

No. 1,2,3

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CORAM:HONOURABLE MR. JUSTICE NIRAL R. MEHTA**Date : 03/08/2026****ORAL ORDER**

1. Since, the issues has been raised in this petition, with the consent of the respective parties, the present petition is taken for final hearing.
2. Rule returnable forthwith. Learned Assistant Government Pleader appearing for the respondents waives service of rule.
3. At the outset, learned advocates for the respective parties jointly submitted that the issue raised in this petition is covered by a decision of Division Bench of this Court in Letters Patent Appeal No. 659 of 2024 and other aligned LPAs vide order dated 11.07.2024 with the direction that the actual arrears shall be restricted for a period of three years prior to

the filing of the respective writ petitions.

4. In view of the aforesaid, at this stage, since the facts are not much in dispute and for the sake of brevity, it is thought not fit to narrate the same and hereafter. Thus, this Court would straightaway like to refer the decision of the Division Bench as under:-

19. The Apex Court has held that the claim which is related to service benefits, one of the exceptions to the said rule of delay and latches relating to a continuing wrong. It is held that where a service-related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is exception to the exception. Ultimately, it is held that the High Courts will restrict consequential relief relating to arrears normally to a period of 3 years prior to the date of filing of the writ petition. The Supreme court in case of Rushibhai Jagdishchandra Pathak (supra) has held that the High Court should not have taken the date of decision / judgement of the learned Single Judge for grant of benefits in view of the decision and ration in Tarsem Singh (supra), and further it is clarified that “only the date of filing of the writ petition is relevant while examining the question of delay and latches or limitation, and the arrears are to be confined for three years before the date of filing of the writ petition.”.

20. Hence, the date of filing of the respective writ petitions becomes very relevant while restricting the

arrears for three years. In the present group of appeals, the writ petitions have been filed after considerable delay and hence, the grant of actual arrears to such writ petitioners is governed as per the law enunciated by the Apex Court in the aforementioned decisions. The arrears are required to be restricted to the period of 3 years prior to the date of filing of each of the respective petitions. The reliance placed on the decision of the Apex Court in the case of Lekh Ram (supra) will not apply to the present facts, since the issue with regard to delay in filing the writ petitions by the employee was neither raised nor examined.

21. This directions will only be confined to those employees, who have belatedly filed writ petitions beyond three years questioning the action of the State authorities in conferring the regular pay-scale belatedly, and not from their initial date of appointment.

22. Hence, the directions issued by the learned Single Judges in the respective writ petitions is altered and all the employees shall be entitled to the actual arrears from a period of 3 years prior to the date of filing of the respective writ petitions. It is clarified that since we have not disturbed the decision with regard to the conferment of the regular pay-scale from the initial date of appointment, the pay fixation and other benefits to all the employees shall counted notionally for the intervening period.

5. Keeping in mind the aforesaid proposition, without entering into the merits of the case, the following directions has been passed:

(a) The writ petition stand allowed.

(b) The respondents are directed to issue modified appointment orders to the petitioner inasmuch as the date of the appointment of the petitioner would be treated as the date on which they had entered service on regular pay-scale.

(c) Consequential benefits including benefits of arrears etc., which the petitioner would be entitled to upon such placement would be given to the petitioner for a period of 3 years prior to date of filing of the writ petitions.

(d) It is clarified that consequential benefits would include all benefits as would have been available to the petitioner as if the petitioner was appointed on regular basis on the date of their appointment and would include, but not be restricted to fixing appropriate seniority, fixation of pay / opening of GPF accounts (if applicable) etc.) It is clarified that the petitioner would be treated as being appointed on regular pay-scale from the date of her original appointment and whereas the period prior to 3 years from the date of filing of the writ petition shall be treated as notional for all purposes.

(f) Furthermore, to ensure compliance, the petitioner is directed to produce copies of the above order before their appropriate authority to ensure that the authorities are in the

know about the order of this Court.

(g) The above decision shall be complied with within a period of 4 months from the date the petitioner submit the order in question to the respective head of the departments.

6. With the above directions, the present petition is disposed of as allowed. Rule is made absolute accordingly.

NIHAL PATEL

(NIRAL R. MEHTA,J)