

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 17045 of 2012**

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SANJAYKUMAR VITHALBHAI BHALODIYA

....Petitioner

Versus

STATE OF GUJARAT & Ors.

....Respondents

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Appearance:

MR BIPIN P JASANI, ADVOCATE for the Petitioner

MR RASHESH RINDANI, AGP for the Respondents No. 1 to 4

RULE SERVED for the Respondent No. 5

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CORAM: HONOURABLE MR.JUSTICE PARESH UPADHYAY

Date : 15/03/2017

ORAL ORDER

1. The petitioner has made the following main prayer:-

“(B) YOUR LORDSHIPS may be pleased to issue an appropriate writ, order or direction by quashing and setting aside the impugned order dated. 08/08/2001 as per Annexure-J Colly. issued by the respondent No. 1 for not considering the services rendered for the period from 29/08/1991 to 29/08/2003 as Teacher in Javahar Navoday Vidhyalaya for the purpose of last pay protection and all pensionery benefit as arbitrary, illegal and in violation of Article 14 and 16 of the Constitution of India and against the

principle of natural justice and further be pleased to declare that the petitioner is entitled and eligible to get all the benefits for continuation of services likewise last pay protection and pensionary benefits."

2. From the above prayer clause it is clear that the petitioner wants to treat his earlier service, which he has rendered with the Javahar Navoday Vidhyalaya for the period from 29.08.1991 to 29.08.2003, as continuous service, for the purpose of pay protection and pension both.

3. The material on record shows that, the service rendered with the Javahar Navoday Vidhyalaya was even otherwise not pensionable at the relevant time. Even if the earlier service is treated to be continuous for the purpose of pay protection, when the earlier service was treated to be non-pensionable by the Central Government Authorities, the same can not be treated to be pensionable by the State Government. This aspect has borne out from the letter dated 01.10.2010 written by the Commissioner of Schools to the Education Department of the Government of Gujarat.

4. Mr. Jasani, learned advocate for the petitioner states that, the petitioner gives up his challenge to the extent that his earlier service is required to be treated as continuous for the purpose of calculation of pensionable service. This petition is therefore restricted only to the extent of treating the earlier service for the purpose of pay protection.

5. Since the benefits for the service rendered with the

Jawahar Navoday Vidhyalaya is claimed for the purpose of pay protection, some material with regard to the said service needs to be on record. Mr. Jasani, learned advocate for the petitioner seeks time to place relevant material in that regard on record.

6. At his request, stand over to 23.03.2017.

(PARESH UPADHYAY, J.)

SHRIJIT PILLAI/15