

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 12141 of 2020****With****CIVIL APPLICATION (FOR DIRECTION) NO. 1 of 2024
In R/SPECIAL CIVIL APPLICATION NO. 12141 of 2020****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE MAULIK J. SHELAT**

Approved for Reporting		
	Yes	No
		✓

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NAYAK RAJUBHAI MANUBHAI & ANR.

Versus**STATE OF GUJARAT & ORS.**

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Appearance:

MS HAIZEL VARGHESE for MS ADITI S RAOL(8128) for the Petitioner(s)
No. 1,2

MS RV ACHARYA(1124) for the Respondent(s) No. 3,4

NOTICE SERVED for the Respondent(s) No. 1,2

MR SIDDHARTH RAMI, ASSISTANT GOVERNMENT PLEADER for the
respondent(s) No.1-State

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CORAM:HONOURABLE MR. JUSTICE MAULIK J. SHELAT**Date : 20/04/2026****JUDGMENT**

1. Heard Ms. Haizel Varghese, learned Advocate appearing on behalf of Ms. Aditi S. Raol, learned Advocate for the petitioners, Mr. Siddharth Rami, learned Assistant Government Pleader for respondent No. 1-State, and Ms. R.

V. Acharya, learned Advocate for respondent Nos. 3 & 4.

2. **RULE** returnable forthwith. Mr. Siddharth Rami, learned Assistant Government Pleader, waives service of notice of Rule on behalf of respondent No. 1-State, and Ms. R. V. Acharya, learned Advocate, waives service of notice of Rule on behalf of respondent Nos. 3 & 4.
3. With the consent of the parties, the matter is taken up for hearing.
4. The present writ petition is filed under Article 226 of the Constitution of India, seeking the following reliefs:

“A. Your Lordships may be pleased to issue a writ of certiorari or any other appropriate writ, order or direction declaring the inaction on the part of the respondent authorities in not extending the benefit contained in the Finance Department circular dated 16.07.2019 ordering payment of the minimum of the pay scale of the post against which the part-timers are appointed to the petitioners herein as discriminatory and arbitrary and thus violative of Articles 14, 16 and 21 of the Constitution of India;

AA. Your Lordships may be pleased to issue a writ of certiorari or any other appropriate writ, order or direction to quash and set aside office order dated 12.12.2022 passed by District Development Officer, Ahmedabad (Annexure-H) rejecting the petitioner's case for benefits of resolution dated 16.07.2019;

B. Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondent authorities to consider the case of the petitioners for regularization;

C. Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondent authorities to extend the benefits contained in Finance Department Circular dated 16.07.2019 to the petitioners;

D. Pending admission and final hearing of the petition, Your Lordships may be pleased to direct the respondent authorities to pay the petitioners the minimum of the pay scale of the post against which they are appointed as part-timers;

E. Pending admission and final hearing of the petition, Your Lordships may be pleased to restrain the respondent authorities from terminating the service of the petitioners for eventual engagement of outsourcing agency/contractor;

F Pending admission and final hearing of the matter, Your Lordships may be pleased to restrain the respondent authorities from taking any coercive action against the petitioners or from terminating their services otherwise than in accordance with law; and

G. Your Lordships may be pleased to pass any other and/or further order, as deemed fit, in the interest of justice."

- 5.** At the outset, it is required to be observed that vide order dated 10.04.2026, this Court passed the following order:

“1. Heard Mr. Shalin Mehta, learned Senior Counsel appearing on behalf of Ms. Aditi S. Raol, learned Advocate for the petitioners and Mr. Siddharth Rami, learned Assistant Government Pleader for the respondent-State.

2. At the outset, Mr. Mehta, learned Senior Counsel, would submit that even though the petitioner is appointed on fixed wages, that would not be a ground to deny him at least minimum wages, which otherwise the petitioner entitled for.

3. Mr. Mehta, learned Senior Counsel, would further submit that as per the decision of learned Single Judge of this Court in Special Civil Application No. 6852 of 2020 and allied matters dated 19.07.2022, there were 8 categories carved out, wherein, the case of the petitioner would fall in category 3.

3.1 Mr. Mehta, learned Senior Counsel, would further submit that as per the aforesaid decision, the petitioner is entitled to receive the benefit of Government Resolution dated 16.07.2019. According to Mr. Mehta, learned Senior Counsel, the impugned decision dated 12.12.2022 is unsustainable in law and the petitioner is entitled to receive the benefit as prayed in this petition.

4. Mr. Siddharth Rami, learned Assistant Government Pleader, requests for some time to take appropriate instructions in the matter.

5. S.O. to 20.04.2026. List on top of the board.”

6. Apropos to the aforesaid order, when this Court inquired about the status of the petitioners from Mr. Rami, learned AGP, as well as Ms. Acharya, learned Advocate for the respondent-Panchayat, none of the learned Advocates of the respondents are in a position to dispute the fact that the case of the petitioners may fall within category 3 as per the decision dated 19.07.2022 passed by the learned Single Judge of this Court in Special Civil Application No. 6852 of 2020 and allied matters.
7. The respondent No. 3, vide its impugned order dated 12.12.2022, rejected the claim of the petitioners on the ground that petitioner No. 1 is engaged as a daily wage driver and the petitioner No.2 is engaged as a computer operator on a fixed wage of Rs. 2,500/- from 16.05.2012 and 01.01.2004, respectively; thereby, they are not entitled to receive any benefit of the government circular dated 16.07.2019.
8. This Court, after going through the pleadings of the parties and the documents, it emerges that both the petitioners have been appointed by the respondent-Panchayat on a fixed wage of Rs. 2,500/-. In the past, in a series of litigations cropped up before

this Court, the Coordinate Bench of this Court, vide its judgment dated 19.07.2022 passed in SCA No. 6852 of 2020 and allied matters, formulated/carved out total 8 categories of the petitioners working with respondent-State and according to the respective petitioners of those petitions, they are entitled to receive the benefit of the aforesaid government circular dated 16.07.2019.

9. After adjudicating the claim of the respective petitioners and taking note of the defence set up by the respondent-State, ultimately, the Coordinate Bench in its said decision held that the petitioners falling in all 8 categories are entitled to the benefit of the circular dated 16.07.2019. The relevant observation/finding of the Coordinate Bench of this Court in the aforesaid decision read thus:

"4. Based on the submissions made by the learned advocates for the respective petitioners and the learned AGPs on behalf of the State of Gujarat, 8 categories were carved out for adjudication and interpretation of the circular. Following are the categories:

(1) Challenge to the entitlement of the benefit of the circular because of the rejection of cases those persons who are appointed for less than four hours.

(2) Rejection on the ground that the petitioners have

approached the Court belatedly after termination.

(3) Rejection on the ground that such persons who are appointed on fixed pay basis and for 29 days in a month with one day's artificial break are not entitled to the benefit of the Circular dated 16.7.2019.

(4) Rejection on the ground that the persons working on outsourcing by virtue of the GRs dated 10.2.2006, 1.4.2010 and 25.4.2012 cannot get the benefit of the Circular dated 16.7.2019. This included a category of persons engaged on project work.

(5) Denial of the benefit of the Circular dated 16.7.2019 on the ground that there are no orders of appointments issued to the petitioners.

(6) Denial of the benefit of the Circular dated 16.7.2019 on the ground that the petitioners are part time employees who were appointed after 31.5.2012 and are therefore, not entitled to get the benefit of the circular dated 16.7.2019 as there was a complete ban on engaging part time employees as per the GR dated 25.4.2012.

(7) Denial of the benefit to such Class-IV employee on the ground that they are not working on sanctioned posts.

(8) Persons whose cases are rejected on the ground that they are working with the Panchayat.

12. Category 3:

For category No.3 in context of persons appointed on fixed pay basis for 29 days, Mr. Mehta would submit that it is well settled by the decisions of the Hon'ble Supreme Court that

appointing persons on 29 days basis with one day artificial break is bad. In support of his submissions, Mr. Mehta would rely on a decision of the Hon'ble Supreme Court in the case of Mohd. Abdul Kadir and another v. Director General of Police, Assam reported in 2009(6) SCC, 611 and submit that such persons who were working for number of years on a fixed pay basis cannot be denied the benefit of the minimum of the pay scale.

22. For all the aforesaid reasons as discussed hereinabove considering the categories namely 8 in number, the petitioners are held to be entitled to the benefit of Circular dated 16.7.2019 and, therefore, all these petitions are allowed and the rejections if any, on these grounds as mentioned hereinabove are quashed and set aside."

(Emphasis supplied)

- 10.** Thus, in view of the aforesaid pronouncement and position of law stand as on date, I am of the considered opinion that the impugned order dated 12.12.2022 cannot be allowed to stand and requires to be quashed and set aside; accordingly, it is hereby quashed and set aside.
- 11.** Consequently, the respondents are directed to give the benefit of aforesaid government circular dated 16.07.2019 to the petitioners. The difference of salary amount as per the said circular is required to be calculated by the respondents on or before 31.05.2026 and such amount of difference of pay shall

be paid to the petitioners on or before 30.06.2026.

12. It goes without saying that as per the said circular, the petitioners are also entitled to receive 6% interest which shall also be calculated along with the amount of the difference of salary.
13. Consequently, the present petition deserves to be allowed, which is hereby allowed. Rule is made absolute, to the aforesaid extent. There shall be no order as to costs.
14. Civil Application is also disposed of accordingly.
15. Direct service is permitted.

NILESH

(MAULIK J. SHELAT, J)