

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 9205 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 11846 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 12141 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4292 of 2021

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MALI JAGDISH ARVINDBHAI
Versus
THE STATE OF GUJARAT

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Appearance:

MR SHALIN MEHTA, SENIOR ADVOCATE WITH MS ADITI S RAOL(8128)
for the Petitioner(s) No. 1

NOTICE NOT RECD BACK(3) for the Respondent(s) No. 3

NOTICE SERVED(4) for the Respondent(s) No. 1,2

MR DM DEVNANI, AGP for the Respondent No.1 appears in Special Civil
Application No.9205 of 2020

MS DHWANI TRIPATHI, AGP for the Respondent No.1 appears in rest of the
matters.

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CORAM: HONOURABLE MR. JUSTICE A.S. SUPEHIA

Date : 06/08/2021

COMMON ORAL ORDER

1. In the present group of writ petitions, the petitioners are praying for extending the benefits of the circular dated 16.07.2019 issued by the Finance Department.
2. It is the case of the petitioners that they are in fact rendering services of full time employees, though they were appointed as part timers on a fixed monthly salary.
3. Learned Senior Advocate Mr. Shalin Mehta appearing for the petitioners has submitted that the issue is squarely covered by the decision of the Supreme Court in the case of State of Punjab and Others vs. Jagjit Singh and Others, (2017) 1 SCC 248. He has further submitted that after considering the aforesaid judgment of the Apex Court, the Coordinate Bench of this Court vide judgment dated 21.12.2018 rendered

in Special Civil Application No.7462 of 2012 and allied matters, while considering the policy of outsourcing promulgated vide resolutions dated 10.02.2006 and 25.04.2012, has directed the State Government to consider the cases for payment of minimum wages in the last pay grade as enunciated by the Supreme Court in the case of Jagjit Singh and Others (supra). The aforesaid judgment was subject matter of challenge before the Division Bench and the Division Bench vide common order dated 09.05.2019 passed in Letters Patent Appeal No.1155 of 2019 and allied matters confirmed the view of the Coordinate Bench. He has further submitted that thereafter the State Government issued a resolution dated 16.07.2019, extending the benefits of the judgments of this Court to such part time employees/temporary *ad hoc* employees. It was promulgated that such employees would be granted the fixed pay of Rs.14,800/- in the minimum pay scale of Class-IV employees. It is the case of the present petitioners that though their cases are squarely covered by the said resolution, however, they are not extended such benefits.

4. Learned AGP has submitted that for extending the aforesaid benefits, the service of the petitioners are required to be verified by the concerned department and a proposal has to be sent to the respondent-Finance Department, as per the scheme of the resolution and accordingly, if it is found that the petitioners are entitled, such benefits will be extended.

5. The Coordinate Bench of this Court has specifically observed that in fact the entire policy of outsourcing, which was introduced with resolutions dated 10.02.2006 and 25.04.2012, was held to be illegal. Thus, after the judgments rendered by this Court, it is not open for the State Authorities to engage any employees by way of outsourcing and

even if they are engaged, they would be entitled for the wages, as provided under the resolution dated 16.07.2019.

7. In the considered opinion of this Court, the present group of writ petitions can be disposed of with a direction to the respondent-Finance Department to examine the cases of the present petitioners with regard to extending the benefits of the resolution dated 16.07.2019. The respondent-Finance Department is directed to call for necessary details of all the petitioners from the concerned departments within a period of three weeks from the date of receipt of the present order. The concerned departments are also directed to cooperate and forward the details of the present petitioners to the Finance Department expeditiously within a period of two weeks thereafter. The Finance Department is further directed to examine each case of the petitioners with regard to their service conditions and if they are found eligible as per the judgment dated 21.12.2018 passed in Special Civil Application No.7462 of 2012 and allied matters and order dated 09.05.2019 passed in Letters Patent Appeal No.1555 of 2019 and as per the resolution dated 16.07.2019, such benefits shall be extended to them. The Finance Department is directed to pass appropriate orders after receipt of the details of the petitioners within a period of four weeks. It is clarified that the Finance Department, while examining each of the case of the petitioner, shall specifically keep in mind that the entire policy of outsourcing introduced vide Resolutions dated 10.02.2006 and 25.04.2012 has been declared illegal. It is declared by this Court in the aforementioned decisions that all such employees, who are terminated or affected due to the said policy, are to be reinstated and conferred the benefit of minimum pay. Thus, the only factor, which is requires to be examined in the case of the petitioners is that whether the policy of outsourcing is/was detrimental to their service conditions,

including their termination or non-conferring of minimum pay.

8. It is clarified that if any adverse decision is taken against the present petitioners, it shall be communicated to them and it would be open for the petitioners to revive the present writ petitions by filing a simple note before the Registry.

ABHISHEK

(A. S. SUPEHIA, J)