

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 14882 of 2023**

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HEIRS OF DECD. VISHNUBHAI MANHARBHAI PATEL THROUGH W/O
NIRUBEN VISHNUBHAI PATEL

Versus
STATE OF GUJARAT

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Appearance:

MR YOGEN N PANDYA(5766) for the Petitioner(s) No. 1
for the Respondent(s) No. 2,3,4

MR ADITYA PATHAK, AGP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 02/09/2023
ORAL ORDER

1. Heard learned Advocate Mr. Yogen Pandya for the petitioner and learned AGP Mr. Aditya Pathak for the respondent-State.

2. By way of this petition, the petitioner seeks for payment of lump-sum compensation as per the Government Resolution dated 05.07.2011, more particularly on account of late husband of the petitioner expiring in harness.

3. Considering the submissions made by learned Advocate Mr. Pandya, it would appear that the rejection of grant of such benefit was on account of a clause in the said Government Resolution itself, which inter alia dis-entitled persons working as daily-rated employees etc. from grant of benefit of the said Government Resolution. It would appear that the said issue is no more res-integra, more particularly learned Co-ordinate Benches as well as Division Benches of this Court, having held against the State discriminating between permanent employees and regular

employees. It would also appear that that case of the petitioner being that the late husband of the petitioner had worked in the respondent-Department from the year 2006 till his demise in the year 2021, and therefore the late husband would be entitled for being treated as a regular employee, more particularly on basis of Government Resolution dated 17.10.1988.

4. Considering the submissions made by learned Advocate Mr. Pandya, issue **Notice** to the respondents returnable on **22.09.2023**. Learned AGP Mr. Pathak waives service of notice for the respondent No.1. Direct service for rest of the respondents is permitted.

5. By way of interim relief, it is directed that the respondent No.2 shall consider the case of the present petitioner, more particularly keeping in view the law laid down by this Court in decision dated 20.04.2023 in Special Civil Application No.2884 of 2022 and such other decisions as may be applicable, more particularly whereby persons in the category like the present petitioner were held to be entitled to lump-sum compensation upon demise of employees working with the respondent-Department. The respondent No.2 shall appropriately consider and decide the case of the present petitioner for payment of benefit as available under Government Resolution dated 05.07.2011 by the 18.09.2023. and a copy of such decision shall be made available to this Court on the returnable date.

(NIKHIL S. KARIEL,J)

BDSONGARA