

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 11867 of 2016**

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ASHISHKUMAR JITUBHAI PATEL & 2 other(s)

Versus

STATE OF GUJARAT & 1 other(s)

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Appearance:

MS ROOPAL R PATEL(1360) for the Petitioner(s) No. 1,2,3

LAW OFFICER BRANCH(420) for the Respondent(s) No. 2

MS TRUSHA K PATEL(2434) for the Respondent(s) No. 2

MR ROHAN SHAH, AGP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA****Date : 04/01/2022****ORAL ORDER**

1. Leave to amend. Add the Registry, High Court of Gujarat as party respondent No.3.

2. **Rule** returnable on **28.03.2022**. Direct service is permitted.

3. Learned advocate Ms.Roopal Patel has pointed out various other orders promoting the peons to the post of Bailiffs, who are possessing qualification of S.S.C. The aforesaid orders, upon which the reliance is placed, are passed by the Court of Principal Senior Civil Judge, Anand and Gandhinagar.

4. In the present case, in the affidavit-in-reply, it is specifically contended that the petitioners are denied the promotion in view of the Draft Recruitment Rules viz. Non-Judicial Officers and Staff of the Courts (Recruitment and Conditions of Service) Rules, 2015. *Prima Facie*,

it appears that the petitioners are discriminated qua other employees of the other districts, who are promoted despite having qualification of S.S.C. or lesser than that.

5. Learned advocate Ms.Roopal Patel has further placed reliance on the order dated 17.01.2019 passed in Special Civil Application No.7356 of 2017.

6. This Court has also perused the aforesaid order, whereby the Coordinate Bench of this Court, while examining the Draft Recruitment Rules has specifically directed the respondent No.2 i.e. Principal District Judge, Rajkot to examine the case of those petitioners on the basis of Rules applicable at the relevant juncture. It is submitted by the learned advocate that the said order has been complied with and the petitioners of that petition are conferred the promotion on the basis of the relevant rules applicable at that juncture. It is further submitted that during pendency of this petition, the present petitioners are promoted to the post of Bailiff by the order dated 04.10.2020 since they had passed the 12th standard examination. It is further submitted that however, the issue with regard to deemed date of promotion still remains and the case of the petitioners is required to be considered at par with the other employees of the other districts.

7. Under the circumstances, respondent No.3 is directed to file an affidavit explaining the aforesaid facts and also with regard to discrimination meted out to the petitioners. The affidavit shall further clarify that why the order dated 17.01.2019 passed in Special Civil Application No.7356 of 2017 shall not be followed in the case of the present petitioners also. Necessary affidavit shall be filed on or before the next date of hearing.

Sd/-
(A. S. SUPEHIA, J)

NVMEWADA/89