

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 18500 of 2023**

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BHANUBHAI VANMALIDAS AGARVAT

Versus

STATE OF GUJARAT

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Appearance:

KRISHNAN M GHAVARIYA(8133) for the Petitioner(s) No. 1

for the Respondent(s) No. 2,3,4,5

MS NIRALI SARDA, ASST.GOVERNMENT PLEADER/PP for the

Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 23/10/2023****ORAL ORDER**

1. Heard learned advocate Mr.Krishnan Ghavariya on behalf of the petitioner and learned Assistant Government Pleader Ms.Nirali Sarda on behalf of the respondent - State.

2. By way of this petition, the petitioner has sought for the following reliefs:-

“(A) Your Lordships may be pleased to admit the petition.

(B) Your Lordships may be pleased to allow the petition by issuing a writ of certiorari or any other appropriate writ, direction and/or order in the nature of certiorari quashing and setting aside the order dated 26.04.2023 passed in Appeal No.23 of 2022 by the learned Gujarat Civil Services Tribunal, Gandhinagar in the interest of justice at Annex - A.

(C) Your Lordship may be pleased to direct the respondents to grant the benefit of 1st, 2nd and 3rd higher pay scale upon completion of 09-18-27 years of service along with arrears and interest accrued therein.

(D) Your Lordships may be pleased to award any such other and further relief as may be deemed just and expedient in the interest of justice."

3. It appears that the petitioner is aggrieved of the non-payment of higher scale upon completion of 9-18-27 years as per the policy of the State Government and whereas, the petitioner had, for claiming the benefits, approached the learned Gujarat Civil Services Tribunal, Gandhinagar by preferring an Appeal No.23/2022 more particularly the petitioner having preferred the same after his retirement on 30.06.2016.

3.1. It would appear that the learned Tribunal while considering the submissions, had come to a conclusion that the petitioner, upon being granted the benefits as flowing from the Government Resolution dated 17.10.1988, had been issued promotion to the post of Unskilled Daily Rated Work-Charge Clerk (Class-III) vide order dated 20.07.2004 and whereas thereafter, the petitioner had been further promoted to the post of Work Assistant vide order dated 15.10.2009.

Learned Tribunal has considered that the petitioner having been issued promotion twice, he would not be entitled to the benefit of higher grade as per the Government Resolution dated 02.07.2007.

3.2. Learned advocate Mr.Ghavariya on behalf of the petitioner could not dispute the aspect of the petitioner having been promoted twice and whereas, learned advocate would submit that a similarly situated person has been granted second higher grade by the respondent department and whereas, therefore, the petitioner is entitled to such relief.

4. In the considered opinion of this Court, as far as the petitioner is concerned, the fact of the petitioner having been promoted twice clearly dis-entitles him to payment of salary in higher grade more particularly the policy of the State Government in that regard is to ensure that the government employees who could not receive promotion after working for a particular number of years on a post do not stagnate and therefore, they are to be given higher grade in the next higher pay scale. The petitioner having received two promotions,

there could not be any submission that the petitioner had stagnated on any post in question.

4.1. Insofar as another employee is concerned, while it is true that the said person may have been conferred the benefit, but, that would be for the State to look into. If there is any error committed by the respondent authorities in case of a co-employee, law would not permit the petitioner to submit that the respondents to be directed to commit the same error in favour of the present petitioner. The said person named at page-86 of the petition, the circumstances under which he came to be issued the second higher grade not being placed on record and furthermore, since it clearly appears that the petitioner himself would not be entitled for the higher grade, in the considered opinion of this Court, no error appears to have been committed by the learned Tribunal. Hence, the present petition stands disposed of as rejected.

(NIKHIL S. KARIEL,J)

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