

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/LETTERS PATENT APPEAL NO. 1323 of 2025****In R/SPECIAL CIVIL APPLICATION/17020/2024****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/LETTERS PATENT APPEAL NO. 1323 of 2025**

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PATEL KHUSHBUBEN HASMUKHBHAI

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR HEM R DAVE(11961) for the Appellant(s) No. 1

MS. SHRUTI DHRUVE, ASST. GOVERNMENT PLEADER for the Respondent(s)
No. 1,2

MR HS MUNSHAW(495) for the Respondent(s) No. 3,4

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CORAM:**HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA**

and

HONOURABLE MR.JUSTICE J. L. ODEDRA**Date : 28/04/2026****JUDGMENT****(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)**

[1] The appellant was appointed on 03.07.2010 as an assistant teacher.

[2] As per the terms of the appointment, she was required to be paid a fixed pay scale for the first five years and thereafter she was required to be given a regular pay scale.

[3] It is submitted that the petitioner was not given the regular pay scale even after the completion of the first five years, and, on the contrary, on 12.12.2018, she was served with a show

cause notice in which it was alleged that, though her name was not found in the selection list, she had been appointed, and therefore she was required to show cause as to why her appointment should not be set aside.

[4] It is not in dispute that the appellant herein challenged the show cause notice, which was quashed by a learned Single Judge of this Court on 24.01.2020.

[5] As against that order, the authorities preferred an appeal in LPA No. 866 of 2020, in which an interim order to the following effect has been passed:

"[3] Once the aforesaid impugned show cause notice came to be issued pursuant to an Inquiry Committee appointed to look into the illegalities in the recruitment made, at least they may be permitted to conclude the said inquiry, but not to pronounce the final conclusion thereon, though they may conclude the inquiry and not pronounce the final outcome thereon till the final disposal of the present Letters Patent Appeals and any further orders passed by this Court."

[6] It is therefore clear that, in the matter relating to the validity of the appointment of the petitioner and similarly situated teachers, the Division Bench has permitted the respondents to continue with the inquiry and conclude the same and the Division Bench has not permitted the respondents to curtail any of the benefits to the teachers, which they were otherwise entitled to.

[7] Learned Counsel for the appellant points out that similarly situated teachers, notwithstanding the said order passed by the Division Bench, preferred Special Civil Applications before this

Court seeking payment of regular pay scale in SCA No. 13834 of 2022, in which the learned Single Judge of this Court has passed an order in the following terms:

“(ii) The respondents are directed to place the petitioners in regular pay scale upon completion of five years of service as per the terms and conditions of appointment of the present petitioners.

(iii) The arrears of difference of salary from the date the petitioners shall be treated as having been regularized till the date of disbursement, shall be paid to the petitioners with all consequential benefits.

(iv) The petitioners shall be entitled to interest at the rate of 6% upon arrears from the date the similarly situated persons had been placed in regular pay scale and while the interest shall be paid by the State Government, liberty is reserved to recover, if the delay appears to be deliberate/intentional i.e. it would be open for the State to hold an inquiry to ascertain whether the delay was deliberate, intentional and based upon the result thereof, take appropriate action against officers with the office of respondent no.3 both present and past who were responsible for the deliberate inaction in placing the present petitioners in regular pay scale.

(v) The above exercise of placing the petitioners in regular pay scale and granting arrears to the petitioners along with interest shall be done by the respondents within a period of eight weeks from the date of receipt of this order.”

[8] On the basis of this order, the petitioner filed SCA No. 17020 of 2024, and in this petition, the learned Single Judge, by the impugned order, has disposed of the petition by directing the respondents to conclude the departmental inquiry within a period of four months, and they are directed to take a final decision as per the orders passed in the LPAs, and they have to

consider the case of the petitioner for being placed in the regular pay scale from the date on which she has completed five years of service.

[9] The above set of undisputed facts would indicate that the group of assistant teachers, who were similarly placed, i.e., teachers whose appointments are under a cloud, have been accorded a regular pay scale as per the terms of their appointment. In that view of the matter, the denial of the same benefit to the petitioner cannot be justified.

[10] It is to be stated here that, if ultimately the appointment of the petitioner and the other teachers is to be set aside, they would lose their jobs, but that would not mean that they would not be entitled to the salary that was prescribed for the said jobs as per the terms of recruitment. It is therefore clear that the respondents would have to necessarily pay the petitioner as per the terms of her appointment, i.e., the regular pay scale on completion of five years.

[11] This payment would basically be in terms of the order passed in the aforementioned Special Civil Application filed by other teachers.

[12] The Letters Patent Appeal is accordingly disposed of by modifying the order of the learned Single Judge in so far as it relates to this aspect i.e., the payment of regular scale on the completion of 5 years from the date of the petitioner's appointment, in the same terms as aforementioned in SCA No. 13834 of 2022 passed in respect of the group of Assistant

Teachers who are identically placed as the petitioner. The other portions of the order of the learned Single Judge are, however, not modified.

[13] The respondents, if necessary, shall move the Government for release of the regular pay scale and the arrears to the petitioner, and the said exercise shall be concluded within a period of 12 weeks from the date of receipt of a copy of this order.

[14] In view of the order passed in the main matter, the connected Civil Application does not survive and is accordingly disposed of.

(N.S.SANJAY GOWDA, J)

(J. L. ODEDRA, J)

Mehul Desai

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: MEHULKUMAR BHIMABHAI DESAI(HCD0075), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 29/04/2026 15:51:50