

6. Having considered the entire matter, we are of the opinion that no relaxation could have been granted in favour of the appellant in the qualifications which are said to be mandatory for recruitment to Class III post.

7. At this stage, learned counsel for the appellant submits that having worked for about 12 years, the appellant cannot now be rendered jobless. Even though he is not entitled to a Class III post, he would be certainly entitled to a Class IV post on compassionate grounds. He, therefore, prays that the appellant may be permitted to continue on Class IV post. However, this request is vehemently opposed by the learned counsel for the respondents and he submits that once the appellant had been appointed on Class III post, he cannot be considered for regularising his service on a Class IV post.

8. We are of the considered opinion that the stand taken by the respondents is unnecessarily harsh. It must be remembered that the appellant was initially appointed on compassionate grounds as his father had died while he was in service. Compassionate appointment is made by relaxation of the normal service rules for providing immediate financial assistance to the family of the deceased who dies in harness. It is unfortunate that the appellant was unable to pass the in-service examination so as to enable him to continue on a Class III post. But that ought not to result in depriving him of service altogether.

9. In view of the above, we allow this appeal and direct the respondents to appoint the appellant on a Class IV post. The appointment of the appellant on a Class IV post shall be from the date he was initially appointed on Class III post. His seniority shall be reckoned from the date of initial appointment. However, the appellant shall not be entitled to any back-wages since he has not worked, on any of the posts, after the date of termination of his services.

10. In view of the above, the impugned judgment passed by the High Court cannot be sustained and the same is set aside. The appeal is allowed. No costs.

(SURINDER SINGH NIJJAR)

.....J

.....J
(ANIL R. DAVE)

New Delhi;
January 18, 2013.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).25586/2010

(From the judgement and order dated 20/02/2009 in SCA No.15354/2004 of the
HIGH COURT OF GUJARAT AT AHMEDABAD)

BRIJESH VIPIN CHANDRA SHAH appellant(s)

VERSUS

STATE OF GUJARAT & ORS. Respondent(s)

(With application for directions)
(FOR FINAL DISPOSAL)

Date: 18/01/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR
HON'BLE MR. JUSTICE ANIL R. DAVE

For appellant(s) Mr. Haresh Raichura,Adv.
Mrs. Saroj Raichura,Adv.
Mr. Ranvir Singh,Adv.
Mr. Naresh Kumar,Adv.

For Respondent(s) Mr. Preetesh Kapur,Adv.
Ms. Nandani Gupta,Adv.
Ms. Hemantika Wahi,Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

Heard the learned counsel for the parties.

The impugned judgment passed by the High Court is set aside
and the appeal is allowed in terms of the signed order. No costs.

(A.S. BISHT)
COURT MASTER

(HARJINDER KAUR)
COURT MASTER

(Signed order is placed on the file)