

Gujarat High Court

Union vs Rk on 14 November, 2008

Author: R.M.Doshit,&NbspHonourable Mr.Justice K.M.Thaker,&Nbsp  
Gujarat High Court Case Information System

Print

SCA/5722/2001      4/ 4      JUDGMENT

IN  
THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL  
CIVIL APPLICATION No. 5722 of 2001

With

SPECIAL  
CIVIL APPLICATION No. 3552 of 2001

For  
Approval and Signature:

HONOURABLE  
MS. JUSTICE R.M.DOSHIT  
&

HONOURABLE  
MR.JUSTICE K.M.THAKER

=====

1

Whether

Reporters of Local Papers may be allowed to see the judgment ?

2

To

be referred to the Reporter or not ?

3

Whether

their Lordships wish to see the fair copy of the judgment ?

4

Whether

this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5

Whether

it is to be circulated to civil judge ?

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UNION  
OF INDIA & 2 - Petitioner(s)

Versus

RK  
RAVAL & 2 - Respondent(s)

=====

Appearance  
: [Special Civil Application No. 5722 of 2001]  
MR  
RM VIN with for Petitioners  
MR RAJESH R DEWAL for Respondent(s) :  
1 - 2.  
MR MAGANLAL PARMAR for Respondent(s) : 3,

Appearance  
: [Special Civil Application No. 3552 of 2001]  
MR  
KK SHAH for Petitioners

MS  
MEGHA JANI for Respondent No.1

MR UM SHASTRI for Respondent -2

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CORAM

:

HONOURABLE

MS. JUSTICE R.M.DOSHIT

and

HONOURABLE

MR.JUSTICE K.M.THAKER 14th November, 2008

ORAL  
ORDER

(Per :

HONOURABLE MS. JUSTICE R.M. DOSHIT) The writ petitioners in above Special Civil Application No. 5722 of 2001 are the Union of India and Western Railways. The said petitioners have challenged the judgment and order dated 30th April, 2001 passed by the Central Administrative Tribunal, Ahmedabad [hereinafter referred to as, the Tribunal ] in Original Application No. 125 of 1993.

The writ petitioners in above Special Civil Application No. 3552 of 2001 are the employees of the Western Railways. They have challenged the common judgment and order dated 30th April, 2001 passed by the Tribunal in Original Applications Nos. 555 of 1995; 567 of 1995; 568 of 1995 and 593 of 1995. The subject matter in both these petitions is identical.

The applicants before the Tribunal were the employees of the Western Railways. In the year 1991, with the computerization, the Western Railways required competent staff to man the Computer Reservation Centers. Applications were invited from the existing staff of the Western Railways. Accordingly, the above referred employees had applied for appointment in the Computer Reservation Centers. The said employees were given training. After receiving training, they were posted in the cadre of Enquiry-cum-Reservation Clerks [hereinafter referred to as the ECRC ] in the pay-scale of Rs. 1400-2300. After serving as such for sometime, in the year 1993, the Western Railways decided to call upon the said employees working in the ECRC cadre either to opt to continue in the ECRC cadre or for repatriation to their parent cadre. It is this decision of the Western Railways which was subject matter of challenge before the Tribunal below. According to the applicants, their appointment in the ECRC cadre was permanent and there was no question of their opting for repatriation to their parent cadre. According to the Western Railways, the appointment made in the year 1991 was officiating appointment until regular staff was selected and employed.

It is not in dispute that pending the applications before the Tribunal, the applicants continued to serve in the ECRC cadre; and they have continued to serve as such pending the present writ petitions also. We are informed that some of the applicants have, upon reaching the age of superannuation, retired from service.

In above view of the matter, we are of the opinion that in view of passage of time, the cause of action does not survive. As the applicants have served in the ECRC cadre continuously since 1991, the question of their repatriation to their parent cadre should not arise. The petitions have become infructuous.

The petitions are accordingly disposed of. Rule nisi issued in each Application is discharged. The parties will bear their own cost. It is clarified that the concerned employees will be treated as employees in the ECRC cadre; they will not be repatriated to their parent cadre and they will be entitled to benefits of continuous service in the ECRC cadre.

Registry will maintain copy of this Order in each petition.

{Miss R.M Doshit, J.} {K.M Thaker, J.} Prakash\*    Top