

State Of Gujarat vs Vinodbhai Shivrambhai Rathod on 9 May, 2019

Author: Anant S. Dave

Bench: Anant S. Dave, Biren Vaishnav

C/LPA/1155/2019

ORDER

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 1155 of 2019

In R/SPECIAL CIVIL APPLICATION NO. 7462 of 2012

With

CIVIL APPLICATION (FOR STAY) NO. 1 of 2019

In R/LETTERS PATENT APPEAL NO. 1155 of 2019

With

R/LETTERS PATENT APPEAL NO. 1156 of 2019

In

SPECIAL CIVIL APPLICATION NO. 12904 of 2012

With

R/LETTERS PATENT APPEAL NO. 1166 of 2019

In

SPECIAL CIVIL APPLICATION NO. 4398 of 2010

With

R/LETTERS PATENT APPEAL NO. 1182 of 2019

In

SPECIAL CIVIL APPLICATION NO. 1973 of 2012

With

R/LETTERS PATENT APPEAL NO. 1180 of 2019

In

SPECIAL CIVIL APPLICATION NO. 17106 of 2007

With

R/LETTERS PATENT APPEAL NO. 1160 of 2019

In

SPECIAL CIVIL APPLICATION NO. 11045 of 2013

With

R/LETTERS PATENT APPEAL NO. 1164 of 2019

In

SPECIAL CIVIL APPLICATION NO. 1972 of 2012

With

R/LETTERS PATENT APPEAL NO. 1187 of 2019

In

SPECIAL CIVIL APPLICATION NO. 3427 of 2010

With

R/LETTERS PATENT APPEAL NO. 1185 of 2019

In

SPECIAL CIVIL APPLICATION NO. 11938 of 2012
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R/LETTERS PATENT APPEAL NO. 1176 of 2019
In
SPECIAL CIVIL APPLICATION NO. 7467 of 2012
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R/LETTERS PATENT APPEAL NO. 1184 of 2019
In
SPECIAL CIVIL APPLICATION NO. 8844 of 2012
With
R/LETTERS PATENT APPEAL NO. 1181 of 2019

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C/LPA/1155/2019

In
SPECIAL CIVIL APPLICATION NO. 8845 of 2012
With
R/LETTERS PATENT APPEAL NO. 1169 of 2019
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STATE OF GUJARAT & 2 other(s)
Versus
VINODBHAI SHIVRAMBHAI RATHOD & 64 other(s)

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Appearance:

GOVERNMENT PLEADER(1) for the Appellant(s) No. 1,2,3

MS VIDHI J BHATT(6155) for the Respondent(s) No.

1,10,11,12,13,14,15,16,17,18,19,2,20,21,22,23,24,25,26,27,28,29,3,30,3

1,32,33,34,35,36,37,38,39,4,40,41,42,43,44,45,46,47,48,49,5,50,51,52,5

3,54,55,56,57,58,59,6,60,61,62,63,64,65,7,8,9

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE ANANT S.
DAVE
and
HONOURABLE MR.JUSTICE BIREN VAISHNAV

Date : 09/05/2019

ORAL ORDER

(PER : HONOURABLE THE ACTING CHIEF JUSTICE ANANT S. DAVE)

1. Upon condoning delay in each of the applications, in all these appeals of State of Gujarat we are appraised of hearing of these appeals on merit in view of limited directions given by learned Single Judge in exercise of powers under Article 226 of the Constitution of India to grant all the employees/original petitioners wages at the minimum of the pay-scale i.e. at the lowest grade-pay in the regular pay-scale as extended to the regular employees holding the same post, after a careful scrutiny of facts about individual employees serving with the department after undergoing regular selection procedure upon summoning their names from employment exchange and serving for more than 11 to 16 years in the respective community health centres of department of health of State of Gujarat in the tribal areas, we have decided to hear the appeals at the stage of admission with consent of learned Government Pleader for the State of Gujarat and learned counsel for respondents/petitioners..

2. Certain facts as emerge on record about petitioners who are class-IV part employees working with community health centres in different districts under the Commissioner of Health, Medical Services

and Medical Education of the State of Gujarat on the post of sweepers, watchman, peon, ward boy serving continuously for more than 10 years after undergoing valid selection procedure as stated in earlier paragraph by calling their names from the employment exchange and holding the interview of the selected candidates, issued appointment letters that all the employees were selected as part-time employees in Class-IV category initially for 29 days on a fixed pay-scale of Rs.1350/- depending on number of hours for which such employees would perform their duties and to be paid from contingency fund with a rider that no claim for permanency or any other right for regularization will be entertained in future nor even request could be granted to sanction the post in future.

3. All the petitioners are rendering their services with respondents without there being any complaint about discharge of their duties at community health centres. Such duties include a sweeper is supposed to assist at the time of inspection and postmortem to be carried out of dead bodies and cleaning wash room and other facilities at such community health centres. Likewise, all other employees serving as a peon, watchman, ward-boy and midwife were supposed to perform their duties in addition to what were prescribed in their appointment letters so suggested by superior officer. According to the petitioner, part time is simply a nomenclature but they were supposed to work as full time employee, since, nature of duty was such that their services extended beyond 8 to 10 hours. Their substantial grievance was against continuous exploitation by a modern and welfare State in restricting their wages and benefits towards equal pay for equal work. Accepting the reality about raising any grievance towards permanency and regularization would result to rendering them jobless and therefore against apprehended termination, they had taken recourse to this Court by filing writ petition under Article 226 of the Constitution of India by taking manifold contentions. Even they have ventilated their grievances for minimum wages i.e. to be paid to petitioners were also not paid and against entitlement on at least Rs.8000/- p.m. they were paid meager sum of Rs.1350/- p.m. and attempts were made to employee agencies by outsourcing their work and thus, replacing the petitioners with another set of employees from outside agencies so as to deprive them of bare minimum livelihood is guaranteed under Article 21 of the Constitution of India by State authorities. Some of the petitioners challenged their termination after rendering years of service without any break as arbitrary, unreasonable and violative of Article 14 of the Constitution of India.

4. Learned Single Judge upon advertng to facts in the contention of prayers made in the writ petition and relying on decision of the Apex Court in the case of State of Punjab vs. Jagjit Singh reported in (2017) 1 SCC 148 and other such decisions applied, Government Resolutions qua entitlement of fixed salary by the petitioners and payment to be made as part-timers from the contingency fund of Rs.1350/- p.m. and admitted fact remained that none of the petitioners discharged duties for less than 6 hours. Further, it was noticed that all the names were called from employment exchange and upon undergoing valid selection procedure they were selected and appointed by imposing certain conditions which was atrocious and continuation of such condition for more than 10 to 16 years in cases of almost all employees and such action from the respondents was found contrary to articles 14 and 21 of the Constitution of India and by negating the claim of the petitioners-employees towards regularization and absorption directed respondent authorities to pay minimum of pay-scale in the lowest pay grade which was extended to regular employees holding the same post and further directions were given with similarly situated employees like the

petitioners be also given such benefits though they had not approached the Court invoking powers under Article 226 of the Constitution of India and further petitioners were held to be not entitled to the arrears of salary for the post service but such minimum pay-scale was to be paid to the petitioner w.e.f. 1.1.2019 and those employees whose services were directed to be taken back on the same post for the same duties.

5. Learned AGP appearing for the appellant-State would vehemently contend that such directions issued by learned Single Judge were contrary to law and part-timers could not have claimed any permanency or regularization and absorption in the job and even parity in pay-scale on par with regular employees. It is submitted that the letter of appointment issued to each of the petitioners was more than specific that such an appointment was a part-time for a limited period of 29 days of getting fixed pay-scale of Rs.1350/- p.m. without entailing any right for claiming permanency or regularization or seeking any direction to confer the post as part of sanctioned establishment. Further such service was to be terminated by the appointing authority depending on administrative exigency when it was not required. It is further submitted that by issuing directions qua impugned order, learned Single Judge held to the extent that no material qua individual workmen about service rendered by such workmen meaning thereby nature of duties discharged as such number of hours, for which, such an employee was employed, facts about individual employee whether warranted and justification for awarding minimum service etc. was available but still directions were issued which deserves to be interfered with. At the most, authority could have been directed to examine and consider individual case based on the service record available and applicability of relevant rule entailing such an employee or receiving minimum of pay-scale in a lowest grade pay on par with regular employee. Further, by drawing our attention to prayers of the writ petition it is submitted that nowhere such claim or demand was made by the employee towards regularization or parity of pay-scale but challenge was made to Government Resolution dated 25.4.2012 and at the most prayer was not to terminate the services of the petitioners as part-timers. Learned AGP would also contend that even some of the employees who had approached this Court by filing Special Civil Application No.1388 of 2009 wherein interim order dated 4.2.2010 was passed wherein it was made clear that such petitioners shall not claim any equity under the guise of interim order. Considering the facts, viz. number of hours, for which, each of the petitioners discharge the duty they were entitled to fix wages of Rs.1350/- and resolution was passed as early as on 10.2.2006 wherein powers of appointment and wages to the part time workers across the State was withdrawn but at the same time considering exigencies in a case part-time employees were allowed to perform their duties strictly in accordance with conditions incorporated in the order of appointment. Learned AGP has further contended that under no circumstances part-time employees could have been equated with regular employees and thus awarding minimum pay-scale in the lowest pay grade was not justified in view of decision of the Apex Court in the case of State of Tamil Nadu through Secretary to Government, Commercial Taxes and Registration Department, Secretariat and another vs. A.Singamuthu reported in (2017) 4 SCC 113 wherein the Apex Court reiterated that part-time or casual employment is meant to serve exigencies of administration and continuance in such service for long period confers no right to regularization especially when scheme of regularization is missing from rule-book and regularization casts huge financial implications on public exchequer. The Apex Court relied on earlier decision including the case of State of Karnataka vs. Uma Devi (2006) 4 SCC 1, State of Rajasthan vs. Daya Lal (2001) 2 SCC 429 and in para 12 of the above judgement wherein

factors I to V are governing scope of powers under Article 226 of the Constitution of India, wherein prayer is for seeking regularization and permanency with equal pay and equal work with regular employees and part-time or casual employees, who are not working against any sanctioned post no direction can be given for absorption, regularization or permanency of part-time employees and also parity in pay-scale with regular employees of the Government to part-time employees in Government run institutions cannot be given.

5.1. It is therefore submitted that order impugned deserves to be quashed and set aside.

6. As against above, Mr. Shalin Mehta, learned senior counsel appearing with Ms. Vidhi Bhatt, learned advocate appearing on behalf of respondents and original writ petitioners would contend that prayer of the writ petitioners is strictly and only to the extent of grant of minimum of pay-scale in the lowest pay-grade which is payable to regular employees and no other benefits. Even such benefits are extended only w.e.f. 1.1.2019 taking away arrears of salary and other back-wages qua those employees whose services came to be terminated and ordered to be reinstated. By taking us about merit of the case it is emphatically reiterated about mode of recruitment of calling names of the petitioners from employment exchange and after holding interviews, the candidates were selected and appointments were given. It is submitted that all the employees continuously and uninterruptedly discharged their duties with utmost sincerity and performed all those tasks in community health centres in remote tribal areas, either as sweepers, watchmen, peon, ward boys and midwife for more than six hours and by paying meager payment of Rs.1350/- p.m. which was less than even minimum wages and minimum of pay-scale and, therefore, the challenge was made to Government Resolution dated 25.4.2012 wherein services of the part-time was sought to be discontinued by replacing them with ad-hoc employees by out-sourcing through agency selected by the State of Gujarat. Initially period of 29 days later on extended for six months and continuity from time to time resulting into breach of constitutional rights of the petitioners under Article 14 of the Constitution of India in arbitrary and unreasonable manner depriving them of basic and bare minimum wages resulting into approaching this Court under Article 226 of the Constitution of India where limited relief is granted to them which is in consonance with law laid down by the Apex court in the case of State of Punjab vs. Jagjit Singh (supra) and no prayer is granted as submitted for permanency or regularization though rendered services for more than 10 to 16 years respectively.

7. Our attention is also drawn to two decisions of this Court rendered by Division Bench wherein similar such cases of fixed salary to part-timers who continued in service for years together and deprived them of even minimum of pay-scale/wages such practice were held in Letters Patent Appeal No.107 of 2009 and Writ Petition (PIL) No.244 of 2014.

8. In Writ Petition (PIL) No.244 of 2014 Division Bench addressed with a plight of part-timers and fixed term and salaried employees who received fixed amount of Rs.1350/- for performing duties for six hours and continued as such for about 15 long years and addressing to revision of pay Rules 2009 vis-a-vis Article 21 of the Constitution of India and duties cast upon State authorities in Chapter IV part IV of Constitution of India under the head of Directive Principles of State Policy where Article 43 provides the State to make all endeavours to secure all suitable legislation that all workers received atleast a living wage and just conditions of working. Further in the judgement

reliance was placed on decision of Hindustan Lever Limited v. B.N.Dongre and Ors. reported in AIR 1995 SC 817 wherein Apex Court explained the importance of wages in the life of the working class against price rise of basic requirements of food, clothing and shelter apart from educational and medical expenses to be borne out for children and family members.

8.1. It is accordingly submitted that reasons assigned by learned Single Judge for awarding minimum of pay-scale in lowest pay-scale do not deserve any interference at the end of this Court.

9. Having regard to the facts and circumstances and further submissions made by learned AGP and learned Senior counsel for the respondents-original petitioners vis-a-vis record of this appeal which contains original record of writ petitions with pleadings and the impugned order passed by learned Single Judge in the context of contention raised by learned AGP about absence of material before learned Single Judge about individual service record of the petitioners for a ready reference we may produce relevant extracts of service history of each of the petitioners in a tabular form which would reveal nature of duties and number of years, for which, each of the petitioners rendered the service and received the salary through out such period.

Sr. No	Name	Place of work	Date of birth	Date of Joining	Desig.	Year of Service	Hrs S of Work
1	Vinodbhai Shivrambhai Rathod	Community Health Centre, Thol, Taluka Kadi, Dist.Mehsana	13.5.1972	05/09/01	sweeper	11 yrs	6 h
2	Vinubhai Dahyabhai Bhangi	Community Health Centre, Choriwad Taluka Vadali, Dist.S.K.	22.4.1968	13.9.1996	Sweeper	15 yrs	6 h
3	Bhangi Kanubhai Ranchhodbhai	Community Health Centre, Langanaj, Taluka Dist. Mehsana	03/10/77	08/05/02	Sweeper	10yrs	6 h
4	Solanki Rameshbhai Pataji	Community Health Centre, Vijaynagar, Tal. Vijaynagar, DistL S.K.	07/07/72	07/07/00	Watchman	12 yrs	6 h
5	Pateliya Babubhai Tejabhai	Community Health Centre, Vijaynagar, Tal.Vijaynagar, Dist.S.K.	15.6.1972	07/07/00	Watchman	12 yrs	6 h
6	Parmar Madhuben Ranchhodbhai	Community Health Centre, Vav Tal. Van, Dist. B.K.	01/02/72	04/02/97	Sweeper	15 yrs	6 h
7	Bhutediya	Community	15.8.1969	04/02/97	Sweeper	15 yrs	6 h

	Maganbhai Ishwarbhai	Health Centre, Vav, Tal. Vav, Dist. B.K.						
8	Sureshkumar Ishwarji Pandya	Community Health Centre, Vav, Tal. Vav, Dist. B.K.	01/06/74	04/02/97	Watchman	15 yrs	6 h	
9	Navabhai Kantibhai Bhangi	Community Health Centre,, Vijapur, Tal. Vijapur, Dist. Mehsana	01/06/72	26.3.1996	Sweeper	16 yrs 4 months	6 h	
10	Solanki	Community	01/06/70	19.5.1999	Sweeper	14 yrs	6 h	
	Kanubhai Sanabhai	Health Centre,Kolavada, Taluka Vijapur, Dist.Mehsana						fi
11	Shrimali Mahendrabha i Ramjibhai	Community Health Centre, Thol, Tal. Kadi Dist. Mehsana	01/06/72	04/09/01	Watchman	11 yrs	6 hrs	135 fix
12	Bhangi Jesangbhai Mafabhai	Community Health Centre,Kahoda, Ta:Unjha, Dist.Mehsana	01/06/73	03/10/97	Sweeper	15 yrs	6 hrs	135 fix
13	Parmar Bhagabhai Jethabhai	Community Health Centre,Kahoda, Tal. Unjha, Dist.Mehsana	01/06/64	07/10/97	Watchman	15 yrs	6 hrs	135 fix
14	Bhangi Khemabhai Abhubhai	Community Health Centre,Sander, Ta:Patan Dist.Patan	01/06/76	05/04/97	Sweeper	15 yrs	6 hrs	135 fix
15	Shambhubhai B.Pandya	Community Health Centre, Kahoda, Taluka Unjha, Dist.Mehsana	27.3.1967	07/10/97	Watchman	15 yrs	6 hrs	135 fix
16	Dashrathbhai	Community	01/06/69	19.5.1999	Sweeper	13 yrs	6 hrs	135

	Mohanbhai Bhangi	Health Centre, Kheralu, Ta:Kheralu, Dist. Mehsana							fix
17	Chenva Raghobhai Ramabhai	Community Health Centre, Choriwad Taluka Vadali Dist. S.K.	01/06/67	13.9.1996	Watchman	15 yrs	6 hrs	135	fix
18	Madhuben Ramabhai Solanki (Bhangi)	Community Health Centre, Tal. Vadali Dist. S.K.	29.1.1970	13.9.1996	Sweeper	15 yrs	6 hrs	135	fix
19	Parmar Sureshbhai Hirabhai	Community Health Centre, Tal. Kheralu, Dist. Mehsana	01/06/66	07/03/97	Watchman	15 yrs 2 months	6 hrs	135	fix
20	Chandrakant bhai Kantibhai Parmar	Community Health Centre, Udalpur, Ta: Visnagar, Dist.Mehsana		13.5.2002	Watchman	10 yrs	6 hrs	135	fix
21	Rajendrakumar Premjibhai Parmar	Community Health Centre, Satlasana Ta:Satlasana, Dist.Mehsana	07/01/80	11/05/02	Peon	10 yrs	8 hrs	135	fix
22	Pandya Dhirajbhai Bhavanishan	Community Health Centre,Dhansura	23.11.1973	26.3.1996	Watchman	15 yrs	6 hrs	135	fix
	kar	, Ta:Dhansura, Dist: S.K.							
23	Narendrabhai Poonambhai Solanki	Community Health Centre, Dhansura, Ta: Dhansura, Dist.S.K.	28.2.1970	21.3.1996	Watchman	15 yrs	6 hrs	1350	fix
24	Taraben Punabhai Bhangi	Community Health Centre, Dhansura, Tal.Dhansura, Dist.S.K.	01/06/67	22.3.1996	Sweeper	15 yrs	6 hrs	1350	fix
25	Bhangi	Community	04/04/75	26.3.1995	Sweeper	15 yrs	6 hrs	1350	

	Bharatkumar Health Centre, Girishbhai Dhansura, Tal. Dhanshura, Dit.S.K.						fix
26	Nitaben Kalidas Makwana	Community Health Centre, Kolvada, (Gerita), Tal.Vijapur, Dist.Mehsana	01/06/72	31.5.1999	Sweeper	13 yrs	6 hrs 1350 fix
27	Minaxiben Danjibhai Rathod	Community Health Centre, Dholaka, Dist. Ahmedabad	28.9.1960	09/11/00	Sweeper	12 yrs	6 hrs 1350 fix
28	Vinubhai Kacharbhai Solanki	Community Health Centre, Gabhoi, Tal.Himmatnaga r Dist. S.K.	02/05/72	29.5.1999	Sweeper	13 yrs	6 hrs 1350 fix
29	Magansinh Kubersinh Makwana	Community Health Centre, Gabhoi, Tal:Himmatnaga r, Dist.S.K.	09/03/72	29.5.1999	Watchman	13 yrs	6 hrs 1350 fix
30	Jayrambhai N Desai	Community Health Centre, Harji, Dist. Patan	01/06/69	10/07/97	Watchman	15 yrs	6 hrs 1350 fix
31	Purohit Prakashkuma r Mohanlal	Community Health Centre, Jafarabad, Tal.Jafarabad, Dit. Amreli	01/06/78	13.5.2002	Watchman	10 yrs	6 hrs 1350 fix
32	Laljibhai Lakhabhai Garaniya	Community Health Centre, Jafarabad, Tal.Jafarabad, Dist. Amreli	05/06/75	13.5.2002	Sweeper	10 yrs	6 hrs 1350 fix
33	Devayatbhai Jagabhai Bambhaniya	Community Health Centre, Jafrabad, Tal.Jafarabad, Dist. Amreli	08/01/76	05/09/02	Watchman	10 yrs	6 hrs 1350 fix
34	Manojbhai Dhudabhai Chauhan	Community Health Centre, Jafarabad, Tal. Jafarabad, Dist.	05/01/74	13.5.2002	Sweeper	10 yrs	6 hrs 1350 fix

35	Ranjanben Hirabhai Jethwa	Amreli Community Health Centre, Bagasara Tal.Bagasara, Dist. Amreli	17.8.1972	27.10.199 7	Sweeper	15 yrs	6 hrs	1350 fix
36	Jayaben Valjibhai Dumreliya	Community Health Centre, Bagsara, Tal. Bagasara, Dist. Amreli	01/06/72	28.10.199 7	Sweeper	15 yrs	6 hrs	1350 fix
37	Ibrahimbhai Bahadurkha Agalani	Community Health Centre, Babra, Tal. Babra, Dist. Amreli	30.11.1971	18.10.199 6	Watchman	15 yrs	6 hrs	1350 fix
38	Karsanbhai Bachubhai Parmar	Community Health Centre, Babra, Tal.Babra, Dist.Amreli	13.2.1970	18.10.199 6	Sweeper	16 yrs	6 hrs	1350 fix
39	Hasmukhraj Pravinbhai Kariya	Community Health Centre, Babra, Tal.Babra, Dist.Amreli	03/12/74	18.10.199 6	Watchman	16 yrs	6 hrs	1350 fix
40	Suru Nareshdan Balubhai	Community Health Centre, Bhesan, Tal.Bhesan, Dist.Junagadh	08/03/72	25.3.1996	Watchman	16 yrs	6 hrs	1350 fix
41	Shardaben Valjibhai Vaghela	Community Health Centre,Bhesan, Tal.Bhesan, Dist.Junagadh	07/02/72	03/11/98	Sweeper	15 yrs	6 hrs	1350 fix
42	Gorhil Bhadreshbhai Hamirbhai	Community Health Centre,Taluka Khambha, Dist.Amreli	01/06/75	12/08/96	Watchman	16 yrs	6 hrs	1350 fix
43	Nagjibhai Narsinhbhai Virani	Community Health Centre, Bhesan, Dist. Junagadh	26.9.1971	22.3.1996	Watchman	16 yrs	6 hrs	1350 fix
44	Divyakant Jethalal Dhudhai	Community Health Centre, Vichchiya, Tal.Jasdan, Dist.Rajkot	04/07/72	13.7.2000	Watchman	11 yrs 10 months	6 hrs	1350 fix
45	Rameshbhai Manjibhai	Community Health Centre,	01/05/75	15.7.2000	Watchman	11 yrs 10	6 hrs	1350 fix

	Makwana	Vichchiya, Tal.Jasdan				months	
46	Bharatbhai Harjibhai Gadhadara	Dist.Rajkot Community Health Centre, Vichchiya, Tal.Jasdan, Dist. Rajkot	14.7.1974	18.7.2000	Sweeper	11 yrs, 6 hrs 10 months	1350 fix
47	Sukhabhai	Community	08/07/72	17.7.2000	Sweeper	11 yrs 6 hrs	1350
	Godadbhai Chavda	Health Centre, Vichchiya, Tal.Jasdan, Dist. Rajkot				10 months	f
48	Poonamben Revabhai Rathod	Community Health Centre, Thol. Tal.Kadi, Dist.Mehsana	19.4.1981	19.1.2004	Aaya	8 yrs	6 hrs 13 fi
49	Kamlaben Bachubhai Pandya	Community Health Centre, Thol, Tal.Kadi, Dist.Mehsana	28.3.1977	15.1.2004	Sweeper	8 yrs	6 hrs 13 fi
50	Makwana Girishbhai Nathabhai	Community Health Centre, Kolithad, Tal. Gondal, Dist.Rajkot	02/09/82	26.6.2002	Watchman	10 yrs	6 hrs 13 fi
51	Kantilal Ambabhai Dafda	Community Health Centre, Kotda Sanghani, tal. Kotda Sanghnai, Dist.Rajkot	18.11.1969	09/10/96	Watchman	16 yrs	6 hrs 13 fi
52	Pravinbhai Rughnath Devmurari	Community Health Centre, Dwarka, Tal.Dwarka, Dist.Jamnagar	30.11.1970	16.6.2000	Watchman	16 yrs	6 hrs 13 fi
53	Somjibhai Pehtabhai Parmar	Community Health Centre, Dwarka, Tal.Dwarka, Dist.Jamnagar	13.9.1970	27.3.1996	Watchman	16 yrs	6 hrs 13 fi
54	Razakbhai	Community	20.9.1976	08/04/96	Watchman	16 yrs	6 hrs 13

	Allarakhabha Chotiyara	Health Centre, Una, Tal.Una, Dist.Junagadh							fi
55	Smt.Ramilaben Govindbhai Chauhan	Community Health Centre, Una, Tal.Una, Dist.Junagadh	29.8.1967	11/05/98	Sweeper	15 yrs	6 hrs	13 fi	
56	Dipakbhai Kalabhai Makwana	Community Health Centre, Una, Tal.Una, Dist.Junagadh	01/06/77	03/08/01	Watchman	11 yrs	6 hrs	13 fi	
57	Vaja Premjibhai Devshibhai	Community Health Centre, Girgadhada, Tal.Una, Dist.Junagadh	11/01/77	01/04/02	Wardboy	10 yrs	8 hrs	13 fi	
58	Gohel Rajubhai Bachubhai	Community Health Centre, Girgadhada, Tal.Una, Dist. Junagadh	10/02/80	02/04/02	Sweeper	10 yrs	8 hrs	13 fi	
59	Sakhat Dhirubhai Hamirbhai	Community Health Centre, Girgadhada, Tal. Una,	01/05/78	03/04/02	Wardboy	10 yrs	8hrs	1 f	
60	Kotadiya Prakashbhai Hamirbhai	Dist.Junagadh Community Health Centre, Girgadhada, Tal. Una, Dist.Junagadh	31.8.1978	15.7.2001	Watchman	11 yrs	6 hrs	135 fix	
61	Gohel Jitubhai Bhagwanbhai	Community Health Centre, Girgadhada, Tal.Una, Dist.Junagadh	05/04/79	14.7.2001	Watchman	11 yrs	6 hrs	135 fix	
62	Parmar Devshibhai Dahyabhai	Community Health Centre, Girgadhada, Tal.Una, Dist.Junagadh	11/04/81	13.7.2001	Sweeper	11 yrs	6 hrs	135 fix	
63	Parmar Samuben	Community Health	20.5.1973	16.7.2001	Sweeper	11 yrs	6 hrs	135 fix	

	Karsanbhai	Centre, Girgadha da, Tal.Una, Dist.Junagadh						
64	Bhangi Jasiben Gabhabhai	Community Health Centre, Harji, Tal.Harji, Dist.Patan	01/06/71	01/07/97	Sweeper	14 yrs, 6 hrs 11 months	1350 fix	
65	Parmar Rajkumar Balabhai	Community Health Centre, Harji, Tal.Harji, Dist.Patan	11/07/74	20.6.1997	Watchman	14 yrs 11 months	6 hrs 135 fix	

10. The above tabular of service details of service of each of the workmen remained undisputed by respondents, the appellant-State herein and the record further reveal that each of the employees had undergone valid selection procedure undertaken by selection committee upon holding interview and the name of individual was called from employment exchange for the post of Class-IV in the fixed pay-scale of Rs.1350/- that service rendered by the employees are not less than 10 to 11 years and extending upto 15 to 16 years continuously and incorporation of condition No.2 in the appointment letter issued to each of the petitioners of dis-entailing employee of not claiming any future benefits in the form of permanency or regularization or parity in pay-scale with regular employees is nothing but a contract between lion and land and as addressed by Division Bench of this Court in the Writ Petition (PIL) 244 of 2014 in the case of Gujarat Rajya Anshkalin Karmachari Mandal vs. State of Gujarat & Ors. that their voice of part timers and casual labourers is too feeble and their future is also too un-certain for want of any protection of Article 311 of Constitution of India and long service tenure as semi- skilled or un-skilled workers or employees either as sweepers/cleaners/water servers/gardener/watchman etc. and appointment is mostly contingency based and work charged with little permanency attached result into social exploitation and when such oral order dated 21.8.2014 was rendered statistics reveal that more than 10,000 to 15000 such workers were deprived of even minimum of pay-scale after long years of more than 15 years of service. In para 8 of the above decision the State of Gujarat especially Finance Department was directed that all part-time workers were to be considered and paid at the same rate of remuneration prescribed per day for the employment of sweeping and cleaning work under the said notification dated 5.8.2013 and wages are to be revised accordingly and further order was passed that the State Government shall present affidavit suggesting periodic revisions that may be adopted for remuneration of such persons from time to time after 1998.

11. In the case of State of Punjab vs. Jagjit Singh, the Apex Court threadbare considered all ad-hoc and temporary workers and in similar such circumstances addressed to the issue about right of such employees who claimed wages on par with minimum of the pay scale of regularly engaged government employees holding the same post to which even learned Single Judge also referred to and we would like to refer to paragraphs 54, 55, 56, 57 and 58, which reads as under:

"54. There is no room for any doubt, that the principle of 'equal pay for equal work' has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court. The same is binding on all the courts in India, under Article 141 of the Constitution of India. The parameters of the principle, have been summarized by us in paragraph 42 hereinabove. The principle of 'equal pay for equal work' has also been extended to temporary employees (differently described as workcharge, daily-wage, casual, ad hoc, contractual, and the like). The legal position, relating to temporary employees, has been summarized by us, in paragraph 44 hereinabove. The above legal position which has been repeatedly declared, is being reiterated by us, yet again.

55. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work, cannot be paid less than another, who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Any one, who is compelled to work at a lesser wage, does not do so voluntarily. He does so, to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffer immensely, if he does not accept the lesser wage. Any act, of paying less wages, as compared to others similarly situate, constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.

57. Having traversed the legal parameters with reference to the application of the principle of 'equal pay for equal work', in relation to temporary employees (daily-wage employees, ad-hoc appointees, employees appointed on casual basis, contractual employees and the like), the sole factor that requires our determination is, whether the concerned employees (before this Court), were rendering similar duties and responsibilities, as were being discharged by regular employees, holding the same/corresponding posts. This exercise would require the application of the parameters of the principle of 'equal pay for equal work' summarized by us in paragraph 42 above.

However, insofar as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals, were appointed against posts which were also available in the regular cadre/ establishment. It was also accepted, that during the course of their employment, the concerned temporary employees were being randomly deputed to discharge duties and responsibilities, which at some point in time, were assigned to regular employees. Likewise, regular employees holding substantive posts, were also posted to discharge the same work, which was assigned to temporary employees, from time to time. There is, therefore, no room for any doubt, that the duties and responsibilities discharged by the

temporary employees in the present set of appeals, were the same as were being discharged by regular employees. It is not the case of the appellants, that the respondent-employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State, that any of the temporary employees would not be entitled to pay parity, on any of the principles summarized by us in paragraph 42 hereinabove. There can be no doubt, that the principle of 'equal pay for equal work' would be applicable to all the concerned temporary employees, so as to vest in them the right to claim wages, at par with the minimum of the pay-scale of regularly engaged Government employees, holding the same post. 58. In view of the position expressed by us in the foregoing paragraph, we have no hesitation in holding, that all the concerned temporary employees, in the present bunch of cases, would be entitled to draw wages at the minimum of the pay-scale (-

at the lowest grade, in the regular pay-scale), extended to regular employees, holding the same post."

12. The law laid down by the Apex Court as above is squarely applicable in the facts of this case and we are not inclined to accept the arguments canvassed by learned AGP that the decision laid down in the case of State of Punjab vs. Jagjit Singh is not applicable inasmuch as, employees in all these appeals not only rendered valuable service in community health centre at remote and tribal areas of State of Gujarat for more than six months but continued to receive instructions from superior to perform such duties beyond prescribed hours for about 11 to 16 years as the case may be, therefore, in our view ratio and law laid down in the case of State of Punjab vs. Jagjit Singh will apply in the facts of this case with equal force.

13. In addition to above, learned Single Judge has considered other decisions of the Apex Court including that of Uma Devi (supra) which also covered an exception for those who are working with authority or establishment of State within meaning of Article 12 of the Constitution of India for more than 10 years by holding that four conditions laid down in the case of Uma Devi (supra) are fulfilled in the facts of the case namely, initial appointment of the employee was legal meaning thereby in the manner contingency and completely with scheme as contained under Article 14 and 16 of the Constitution of India and that employee has put in 10 years of service or more than and continued in service when taking shelter of any courts' order and that there existed sanctioned post. Learned Judge accordingly noticed that the State Government had passed Government Resolution dated 1.5.2007 as amended by resolution dated 16.5.2008 providing for one time regularization of all part-time/ad hoc/temporary employees who had put in 10 years or more services and the fact about and we are of the view that since establishment was in existence for years together formality of declaring the same as sanctioned would not come in the way of petitioners receiving atleast minimum of pay-scale in lowest grade-pay when their claim towards permanency and regularization is rejected by learned Single Judge. Even benefits of arrears of salary is also not granted and held to be entitled w.e.f to receive their salary namely, minimum of salary in the lowest grade-pay with that all regular employees on the same post w.e.f. 1.1.2019 and thus, rights of the employees to be permanent employees by seeking regularization is not accepted by learned Single Judge. Thus, reasoning of learned Single Judge and limited acceptance of prayer, in a writ petition under Article 226 of the Constitution of India cannot be termed as contrary to law.

14. That submission made by learned AGP based on decision rendered in the case of State of Tamil Nadu (supra) had no substance as such inasmuch as, in the above case the Apex Court in para 16 of the decision referred to the case of State of Rajasthan v. Daya Lal (supra) wherein principle of equal pay for equal work qua Government employees vis-a-vis part-time and casual employees of Government run institutions was the background in which such law was laid down and it is held that part-time employees is not entitled to seek regularization as they are not working against sanctioned post or there cannot be a direction for absorption, regularization or permanent continuance of part-time temporary employees. No such direction is given in these cases by learned Single Judge and the only direction is about payment of minimum wages in the lowest pay-grade available to the regular employees on the same post. If the law laid down in the case of State of Punjab vs. Jagjit Singh (supra) is considered to which, we have already made a reference, it is held that ad hoc and temporary employees have right to receive minimum of wages in the lowest pay-grade and the facts and circumstances of these appeals which emerge on record that duties discharged by the employees-original writ petitioners is akin to temporary and ad hoc employees and nomenclature is about part-time employees but discharge of their duties with utmost sincerity and no complaint from the employer for years together deserve consideration for limited relief of grant of minimum of pay scale without benefits of permanency or regularization. We are in agreement with law laid down by this Court while dealing with Letters Patent Appeal No.107 of 2009 and Writ Petition (PIL) No.244 of 2014 in similar such facts and circumstances and Hindustan Lever (supra).

15 Having regard to the totality of facts and circumstances, we are of the considered view that no interference is called for. Appeals are merit-less and deserve to be dismissed. Accordingly, appeals stand dismissed. No costs.

16. In view of the above, Civil Applications (For Stay) also stands dismissed.

(ANANT S. DAVE, ACJ) (BIREN VAISHNAV, J) NAIR SMITA V.