

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 950 of 2022
In R/SPECIAL CIVIL APPLICATION NO. 17073 of 2016
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2020
In R/LETTERS PATENT APPEAL NO. 950 of 2022

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GUJARAT PRADESH MAHA NAGARPALIKA
Versus
STATE OF GUJARAT

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Appearance:

MR NK MAJMUDAR(430) for the Appellant(s) No. 1,2
MR HS MUNSHAW(495) for the Respondent(s) No. 2
MS SHRUTI DHRUVE, AGP for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE N.V.ANJARIA
and
HONOURABLE MR. JUSTICE J. C. DOSHI

Date : 27/06/2023

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE N.V.ANJARIA)

Heard learned advocate Mr.N.K.Majmudar for the appellants, learned Assistant Government Pleader Ms.Shruti Dhruve for the respondent No.1 and learned advocate Mr.H.S.Munshaw for the respondent No.2.

2. In this Letters Patent Appeal, what is sought to be called in question is order dated 11.11.2019 of learned single Judge whereby Special Civil Application of the original petitioner came to be dismissed.

2.1 The prayer in the petition preferred by the Gujarat Pradesh Maha Nagarpalika- Karmachari Congress and another was to

direct respondent Surat Municipal Corporation to pay nursing allowance of Rs.225/- per month to all the petitioners who are serving as Nurses in various hospitals and dispensaries under the Surat Municipal Corporation. The nursing allowance was claimed from 18.2.2002 upto 3.10.2012 with interest. It was further prayed to disburse the nursing allowance as revised at Rs.600/- per month. By communication dated 17.2.2016 nursing allowance was denied to all the nursing staff- the petitioners, which was prayed to set aside.

3. The case of the petitioners was primarily based on Resolution dated 3.10.2012 of the Health and Welfare Department of the State Government which contemplated for the nursing staff of the State Government, the payment of nursing allowance, uniform allowance and washing allowance. It was stated in the Resolution that allowance at the rate prescribed will be payable to the nursing staff discharging duties under the District Panchayat, Health Centres and Primary Health Centres.

3.1 Resting on the said Resolution, the petitioners contended that the nursing staff employees of the State Government were paid such allowances and the Surat Municipal Corporation also started making payment of washing allowance and welfare allowance but the same was granted at the pre-revised rates. It was stated that since the nursing staff of the Corporation could not be paid the allowances in uniform manner as were paid to the said nursing staff, Special Civil Application No.19151 of 2015 was filed, which was disposed of by learned single Judge on 24.11.2015, relegating the petitioners to make

representation. It was stated that pursuant to the same, the authorities of the Corporation took decision on 17.2.2016, revising the washing allowance and uniform allowance. It was stated that the said two allowances are paid on the same basis as are paid to the nursing staff of the State Government nurses.

3.2 The grievance in the present petition is that the remainder nursing allowance are not paid to the nurses of the Surat Municipal Corporation and that request for the payment of the same has been turned down by the authorities.

3.3 Thus, the uniform allowance and washing allowance came to be enhanced at the rate of Rs.125/- to Rs.350/- and Rs.75/- to Rs.150/- respectively. Nursing allowance at the rate of Rs.225/- per month is claimed as per the aforementioned Resolution dated 3.10.2012 which is for the nursing staff of the State Government.

4. While rejecting the prayer, learned single Judge reasoned thus, extracting from para 7,

“7. The respondent corporation is an autonomous body and is governed by the own provisions and set up. The provisions of various Government Resolutions are not automatically applicable to the respondent Corporation unless the same are adopted by a legal procedure. It has to take policy decisions in accordance with its administrative exigency and economic condition. Since the respondent Corporation has not adopted the norms of State Government, this Court while exercising powers under Article 226 of the Constitution cannot compel an autonomous body for the respondent Corporation to adopt the norms of the State

Government.”

5. The aforesaid reasoning is eminently proper. Learned single Judge took the view that even otherwise the said Resolution dated 3.10.2012 is confined to the State Government staff employees and could not be readily and directly applied to the employees of the Corporation. It was stated that even otherwise the budgetary constrains are relevant consideration for extending the monetary benefits.

5.1 The employees of the State Government and that of the Corporation which is local body of the State Government and autonomous body could not be said to be constituting single class. Both are governed by different set of rules and pay conditions. Merely because two of the allowances were made available to the State nursing staff, it would not automatically entitle the Corporation staff to claim the nursing allowance. There is no right with the Corporation nursing staff to be paid the allowances, even if the same is paid to the State employees.

5.2 Furthermore, payment of allowances or service benefits to its employees is in the domain of Corporation. It is a matter of policy to be adopted where allowances at par with the employees of the State Government is to be paid or not. The petitioners cannot claim the said as of right nor the High Court can give such relief in respect of the policy matter.

6. Therefore, in dismissing the Special Civil Application and not granting prayer made by the petitioner, learned single Judge could not be said to have committed any error. The challenge to the order of learned single Judge is meritless. The present

appeal is liable to be dismissed.

7. Accordingly, the Letters Patent Appeal is dismissed.
Notice is discharged.

In view of the dismissal of the Appeal, the Civil Application will not survive. Accordingly, it is disposed of.

(N.V.ANJARIA, J)

(J. C. DOSHI, J)

Manshi