

ASSOCIATION FOR JUDGES

5-MADHAV VILLA, BRTS STAND,
ZUNDAL CIRCLE,
NEAR SANGATH POSH,
CHANDKHEDA, AHMEDABAD-382424

એસોસિએશન ફોર જજીસ

૫- માધવ વિલા, બીઆરટીએસ,
ઝુંડાલ સર્કલ,
સંગાથ પોષનીબાજુમાં,
ચાંદખેડા, અમદાવાદ - ૩૮૨૪૨૪
email:wejudges@gmail.com

Date: 03 April 2021

To,

Hon'ble Chief Justice & Hon'ble Judges,

High Court of Gujarat.

Through,

Registrar General,

High Court of Gujarat,

with request to put this representation on kind notice
of Hon'ble Chief Justice and Hon'ble Judges.

Subject: **Representation to Postpone the Suitability
Test for the 65% Promotion to the District
Judge Cadre due to Corona.**

Respected Sir/Madam,

1. We, the below mentioned Retired Judicial Officers have formed an formal '**Association for Judges**' for the Judicial Officers, whether in-service or retired from service. The aim and object to form this association is to collect information regarding difficulties, problems, discriminations and issues faced by Judicial Officers at various levels and make representations for the same before appropriate authorities with intention to resolve such issues so that Judicial Officers can work under healthy, uniform working atmosphere and to bring feeling of respect and dignity among them.

2. For a subordinate Judicial Officer promotion to the District Judge cadre is the top most achievement and dream of his/her life. At present process of Promotion

to the district Judge cadre (65%) from eligible Senior Civil Judges is under consideration. Suitability test for officers who are in the Consideration Zone is arranged on 4th April 2020.

3. Hon'ble Supreme Court has observed in the case of **Ajit Singh And Ors vs State Of Punjab And Ors** [(1999) 7 SCC 209] that,

Hon'ble Supreme Court has observed in the case of **Ajit Singh And Ors vs State Of Punjab And Ors** [(1999) 7 SCC 209] that,

"Article 16(1) provides to every employee otherwise eligible for promotion or who comes within the zone of consideration, a fundamental right to be "considered" for promotion. Equal opportunity here means the right to be considered" for promotion. If a person satisfies the eligibility and zone criteria but is not considered for promotion, then there will be a clear infraction of his fundamental right to be "considered" for promotion, which is his personal right."

Hon'ble Gujarat High Court has also observed in the case of **DISTRICT PANCHAYAT JUNAGADH Versus JASWANTGIRI N. GONSAI & 3** (LETTERS PATENT APPEAL No. 1633 of 2005) that,

"As recently held by the Apex Court in Union of India and Another v. Hemraj Singh Chauhan & Ors. [AIR 2010 SC 1682] (para 38), it is an accepted legal position that the right of eligible employees to be considered for promotion is virtually a part of their fundamental right guaranteed under Article 16 of the Constitution. The guarantee of a fair consideration in matters of promotion under Article 16 virtually flows from guarantee of equality under Article 14 of the Constitution. Earlier, in Coal India Ltd. v. Saroj Kumar Mishra [AIR 2007 SC 1706], the Apex Court held that although an employee of a State is not entitled to promotion to a higher post as a matter of right, he is entitled to be considered therefor in terms of Article 16."

4. We feel great pain to say that arranging such test at Ahmedabad during this peak period of pandemic is very insensitive step on part of the Recruitment branch of the High Court of Gujarat and Hon'ble High Court itself as a parent institute of Subordinate Judicial Officers. We all know that Ahmedabad is facing the worst phase of Covid-19. Cases are rapidly increasing hour by hour.

5. Total 66 Subordinate Judicial Officers are summoned to Ahmedabad for this suitability test on 4th April 2021 from all over the Gujarat and they are supposed to travel to Ahmedabad from far away stations of the Gujarat. **Out of these 66 Officers, as we have been informed, 5 to 6 are already tested positive of the Covid-19** and many more will be infected if they will be force to travel to Ahmedabad. Hence possibilities are there that many officers will avoid this test.

6. More surprising is these Subordinate Judicial Officers are informed by the Registrar Recruitment that they will be allowed to appear in this suitability test only if they submit a NEGATIVE CERTIFICATE of RTPCR, procured 48 hours prior to the test. It appears that Hon'ble High Court is repeatedly curtailing fundamental right of Judicial Officers for the consideration for 65% promotion to the DJ cadre from eligible SrCJs. Now, for the suitability test eligible Judicial Officers (who are in the zone of consideration) have to submit RTPCR (negative) certificate...!! To go on duty in court every morning, they don't require such safety but to appear for the promotion test they require such certificate. This means, Judicial Officers who found positive in RTPCR are not entitled for the promotion...?

7. This is not only denial of the equal opportunity for the promotion but gross discrimination and breach of the fundamental right of consideration for the promotion.

8. More than 66 Subordinate Judicial Officers are being affected with this decision of the recruitment branch and Hon'ble High Court of Gujarat, which in our

humble view is not only illegal but highly discriminatory.

9. Therefore, we request your Honours most respectfully to postpone this suitability test and arrange it virtually and online as per the requirement of the time.

Copy to,

Hon'ble Chief Justice and Hon'ble Judges,

Supreme Court of India,

New Delhi..

Through,

Registrar,

Supreme Court of India,

with request to put this representation on kind notice of Hon'ble Chief Justice and Hon'ble Judges.

Thank you...

From:

(JB Dhadhal)

ADJ(R)

(Yashodharaben Pandya)

DJ(R)

(KP Vegad)

SrCJ

(PA Vaghela)

ADJ(R)