



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/LETTERS PATENT APPEAL NO. 194 of 2021
In R/SPECIAL CIVIL APPLICATION/11695/2020**

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HARDIK VINODSINH SOLANKI

Versus

DIRECTOR GENERAL AND INSPECTOR GENERAL OF POLICE, GUJARAT
STATE & ORS.

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Appearance:

MR. KASHYAP B. TRIPATHI, ADVOCATE FOR MS SHUBHA B
TRIPATHI(5597) for the Appellant(s) No. 1
MR. ADITYA DAVDA, AGP for the Respondent(s) No. 1,2,3

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CORAM:HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA

and

HONOURABLE MR.JUSTICE J. L. ODEDRA

Date : 18/08/2026

ORAL JUDGMENT

(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)

[1] The appellant had been appointed as Police Constable / Lokrakshak under an appointment letter dated 13.07.2013. During the course of his training, he suffered a leg injury on 15.12.2013 and, as a result, could not attend the training camp. After the appellant recovered from the injury, he submitted a representation to the authority on 29.12.2015 to permit him to resume his duty.

[2] By an order dated 28.01.2016, he was permitted to resume duty, and on 23.03.2016, since he had undergone an operation on his leg, he could not complete the training. As a consequence, his name was deleted from the training course and he was sent home. However, an inquiry was initiated on



04.10.2016 alleging unauthorized absence, and in that inquiry, after he produced all necessary medical documents, an order was passed on 20.04.2017 holding that the petitioner would be considered to have been on medical leave without salary for 739 days.

[3] On resuming his duty in the month of August 2017, he was once again directed to undergo an eye check-up at the GMERS Medical College, and it was then found that he had partial colour blindness and was, hence, referred to the Board of Referees. The Board of Referees, on examining the appellant, declared him unfit as per the certificate dated 01.08.2017, and on the basis of this certificate, the appellant was relieved from his duties as a Lokrakshak under the impugned order dated 29.12.2017.

[4] This order dated 29.12.2017 was challenged before the learned Single Judge, and the learned Single Judge came to the conclusion that the appellant could not be permitted to resume duty since he was medically unfit and dismissed the writ petition.

[5] As a consequence, the appellant is before this Court by way of an appeal.

[6] It is the case of the appellant that the question of discharging a selected candidate because of colour blindness

was a subject matter of a case before the Hon'ble Supreme Court, the subject matter of consideration in Special Civil Application No.7595 of 2013, and this Court allowed the writ petitions holding that a candidate selected could not be held unfit because of partial colour blindness. This order was confirmed in appeal by the Division Bench in Letters Patent Appeal No.1136 of 2018, and the SLP filed by the State was also dismissed by the Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No.(s).12397 of 2020 on 12.04.2021.

[7] It is, therefore, the contention of the appellant that the ground on which he was declared unfit cannot be sustainable in the light of the said decisions, and he is required to be permitted to resume duty.

[8] On the other hand, it is the case of the learned Assistant Government Pleader that there was indeed an order by this Court regarding finding a candidate medically unfit because of colour blindness, and that case was decided in favour of the recruit.

[9] However, there have been a spate of writ petitions filed after the said writ petition was allowed by similarly placed employees, and this Court has dismissed all the writ petitions on the ground of delay and, therefore, the appellant cannot be entitled to the benefit of the said order.

[10] It is sought to be contended that the cases in which there is a delay in challenging the order declaring a candidate unfit would have to apply to the present case and, therefore, the order of the learned Single Judge was justified.

[11] The learned Assistant Government Pleader is correct in his submissions that this Court, in a batch of writ petitions, dismissed writ petitions which challenged the order of discharge made because of colour blindness only on the ground of delay. This was on the principle that those petitioners were fundamentally fence-sitters who waited till there was a positive order in one case and thereafter rushed to the Court.

[12] However, in this case, it is noticed that the appellant suffered an injury during his training and was, hence, not permitted to complete his training, but on his recovery, he was permitted to resume duty, and at that stage, he was directed to undergo a medical examination, and at that point in time, it was found that he had colour blindness. In other words, when the appellant had been appointed initially, it was not found that he was colour blind, and, therefore, the question of applying the ground of medical unfitness to discharge the appellant would not arise.

[13] The appellant was out of service for about three years because of an injury, and he was permitted to resume duty on his recovery, and at that stage, it was found that he had

acquired colour blindness, and thereafter, that ground was used to discharge him. It is, therefore, clear that immediately on the order of discharge being passed, the appellant has approached this Court, and this case cannot be compared or equated with a case where there was a considerable delay and the petitions had been filed after similar orders had been set aside by the learned Single Judge.

[14] We are, therefore, of the view that the argument of the learned Assistant Government Pleader cannot be applied to the facts of the present case, and the present case had to be dealt with independently.

[15] Since we have found that the order of discharge was made after the appellant was permitted to resume duty, and the appellant approached this Court immediately, he would be entitled to the benefit of the order passed by this Court in Special Civil Application No.7595 of 2013, which has been confirmed by the Division Bench in Letters Patent Appeal No.1136 of 2018, and also by the Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No.(s).12397 of 2020 on 12.04.2021. Consequently, the order by which the appellant has been declared unfit, i.e., on the ground that he was suffering from colour blindness, cannot be sustained, and the same is accordingly quashed.

[16] However, we also take note of the fact that the appellant was initially appointed in the year 2013, and he was permitted



to resume duty only in the year 2017, and by virtue of this litigation also, he has been out of service. We, therefore, feel that it would be appropriate to consider the date of appointment of the appellant as being from this day, and the appellant shall be entitled to all the benefits as a regular appointee only from this day, and he will not be entitled for any other benefits.

[17] Accordingly, the present appeal is partly allowed.

[18] This decision shall also not be treated as a precedent in any other case.

[19] Direct service is permitted.

(N.S.SANJAY GOWDA, J.)

(J. L. ODEDRA, J.)

DHARMENDRA KUMAR