

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/LETTERS PATENT APPEAL NO. 176 of 2026****In****R/SPECIAL CIVIL APPLICATION/14582/2025****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2026****In****R/LETTERS PATENT APPEAL NO. 176 of 2026**

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RIPINKUMAR JIVANBHAI MAKWANA

Versus

DISTRICT DEVELOPMENT OFFICER & ORS.

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Appearance:

MR HIMANISH J JAPEE(11295) for the Appellant(s) No. 1

MS KRISHNA DESAI, AGP for the Respondent(s) No. 2,3

KAASH K THAKKAR(7332) for the Respondent(s) No. 1,4

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

and

HONOURABLE MR.JUSTICE J. L. ODEDRA**Date : 11/08/2026****ORAL JUDGMENT****(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)**

1. The father of the appellant was working as a teacher when he passed away on 8.12.2002.

2. The appellant, being his legal heir, made an application for being appointed on compassionate grounds on 21.12.2002.

3. As per the prevailing policy for offering an appointment on compassionate grounds, the Government Resolution dated 10.03.2000 stated that if a legal heir was possessing an SSC qualification, he would be entitled for a Class-III post and if he had a 7th standard education



qualification, he would be entitled for a Class-IV post.

4. The District Development Officer, in fact, submitted a proposal recommending the appointment of the appellant for a Class-III post.

5. At that stage, it is not in dispute that the appellant gave an undertaking that he would be satisfied if he were offered an appointment on compassionate grounds to any Class-IV post. He thereby gave up his claim unconditionally for being appointed to a Class-III post. The appellant was accordingly appointed on 9.5.2007 to a Class-IV post as per his undertaking.

6. It is also forthcoming from the arguments that the appellant did, in fact, clear the requisite exams, and as a consequence, he came to be promoted to a Class-III post on 6.12.2018.

7. In the year 2023, when the appellant was working in Class-III post, he filed a petition being Special Civil Application No.16311 of 2023, in which the appellant sought for considering his service from the date of his initial appointment, and basically challenged the imposition of the fixed pay regime of five years. In that petition, the appellant did not seek for his case to be considered in accordance with the GR dated 10.3.2000 seeking for an appointment in Class-III post. In other words, as of 2023, the appellant was only interested in



securing the benefit of service from the date he was appointed to the Class-IV post on 9.5.2007.

8. The said writ petition was allowed and the respondents were directed to extend the benefits on the premise that the appellant was appointed on a regular substantive post from 9.5.2007.

9. Thereafter, in 2025, the appellant filed a writ petition seeking for a direction that he be treated as a Class-III employee from the initial date of his appointment on 9.5.2007 (the date on which he was appointed to a Class-IV post).

10. The learned Single Judge, by the impugned order, has dismissed the writ petition on the ground that the appellant had knowingly given an undertaking that he should be considered only for a Class-IV post and therefore, had given up his claim to a Class-III post. The learned Single Judge took exception to the conduct of the appellant regarding his making a claim retrospectively as a Class-III employee from 6.3.2007.

11. Being aggrieved by this order, the appellant is in appeal.

12. We are in complete agreement with the order of the learned Single Judge and we are of the view that the appellant cannot stake a claim for being appointed to a



Class-III post with effect from his initial appointment on 6.3.2007 as a Class-IV employee. When admittedly, the appellant gave a solemn undertaking that he was relinquishing his claim for a Class-III post and would be satisfied if he was appointed to a Class-IV post, the appellant would be *estopped* from contending that his appointment should be treated as a Class-III post.

13. We find no reason to interfere with the order of the learned Single Judge. The appeal is, therefore, DISMISSED.

14. Pending Civil Application shall stand consigned to record.

Sd/-
(N.S.SANJAY GOWDA,J)

Sd/-
(J. L. ODEDRA, J)

OMKAR