

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****SPECIAL CIVIL APPLICATION NO. 5485 of 2015****With****SPECIAL CIVIL APPLICATION NO. 7826 of 2015****TO****SPECIAL CIVIL APPLICATION NO. 7835 of 2015****FOR APPROVAL AND SIGNATURE:****HONOURABLE SMT. JUSTICE ABHILASHA KUMARI**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	
2	To be referred to the Reporter or not ?	
3	Whether their Lordships wish to see the fair copy of the judgment ?	
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	

**PWD EMPLOYEES UNION & 11....Petitioner(s)****Versus****STATE OF GUJARAT & 3....Respondent(s)****Appearance:****MS SHIMOLEE JHAVERI FOR MS VIDHI J BHATT, ADVOCATE for the  
Petitioner(s) No. 1 - 12****MR DM DEVNANI, LEARNED ASSISTANT GOVERNMENT PLEADER for the  
Respondents in all the petitions****CORAM: HONOURABLE SMT. JUSTICE ABHILASHA  
KUMARI**

**Date : 01/05/2015**

**COMMON ORAL JUDGMENT**

1. Issue Rule, in each petition. Mr.D.M.Devnani, learned Assistant Government Pleader, waives service of notices of Rule on behalf of the respondents, in each petition. On the facts and in the circumstances of the case and with the consent of learned counsel for the respective parties, the petitions are being heard and decided finally.

2. By preferring these petitions under Article 226 of the Constitution of India, the petitioners have, inter-alia, pray to be granted the benefits of the Government Resolution dated 17.10.1988.

3. It is the case of the petitioners that they are daily-waged workers working in the Forest and Environment Department of the State of Gujarat for more than five years, continuously and uninterruptedly. The details regarding the services of the petitioners are annexed as Annexure-A in Special Civil Application No.5458 of 2015. The petitioners

assert that similarly situated daily wagers had earlier filed petitions seeking the benefits of the Government Resolution dated 17.10.1988, and such benefits have been extended to them by several orders of this Court. The matters have even reached the Supreme Court and by the judgment in **State of Gujarat and others v. PWD Employees Union**, reported in **2013(8) SCALE 579**, the Supreme Court has upheld the orders of this Court and directed the State Government to grant the benefits of the Scheme, as contained in the Government Resolution dated 17.10.1988, to all the daily-wage workers of the Forest and Environment Department, who have been working for more than five years. It is the case of the petitioners that they are squarely covered by the above-mentioned judgment of the Supreme Court, therefore, the benefits of the Government Resolution dated 17.10.1988, ought to be extended to them, as well.

4. Ms.Shimolee Jhaveri, learned advocate for Ms.Vidhi J. Bhatt, learned advocate for the petitioners, has submitted that even though the Supreme Court has ruled in favour of similarly situated persons, the State

Government has not extended the benefit of the Government Resolution dated 17.10.1988, to the petitioners, so far. It is submitted that the State Government had filed a review petition in the Supreme Court against the judgment in **State of Gujarat and others v. PWD Employees Union (supra)**. However, the said review application has now been dismissed by an order dated 29.01.2014 passed in Review Petition (C) Nos.2826 and 2827 of 2013 in Civil Appeal Nos.5321-5322 of 2013.

5. Mr.D.M.Devnani, learned Assistant Government Pleader, submits that in view of the judgment of the Supreme Court, the respondents may be directed to examine the cases of the petitioners individually so as to ascertain their entitlement to the benefits flowing from the Government Resolution dated 17.10.1988.

6. This Court has heard learned counsel for the respective parties and considered the material on record. The petitions are squarely covered by the judgment of the Supreme Court in **State of Gujarat and**

**others Vs. PWD Employees Union (supra).** The relevant paragraphs of the judgment are quoted hereinbelow:

*"25. As per scheme contained in Resolution dated 17th October, 1988 all the daily wage workers were not entitled for regularization or permanency in the services. As per the said Resolution the daily wagers are entitled to the following benefits:*

*(i) They are entitled to daily wages as per the prevailing Daily Wages. If there is presence of more than 240 days in first year, daily wagers are eligible for paid Sunday, medical allowance and national festival holidays.*

*(ii) Daily wagers and semi skilled workers who has service of more than five years and less than 10 years are entitled for fixed monthly salary along with dearness allowance as per prevailing standard, for his working days. Such daily wagers will get two optional leave in addition to 14 misc. leave, Sunday leave and national festival holidays. Such daily wagers will also be eligible for getting medical allowance and deduction of provident fund.*

*(iii) Daily wagers and semi skilled workers who has service of more than ten years but less than 15 years are entitled to get minimum pay scale at par with skilled worker along with dearness*

allowance as per prevailing standard, for his working days. Moreover, such daily wagers will get two optional leave in addition to 14 misc. leave, Sunday leave and national festival holidays. He/she will be eligible for getting medical allowance and deduction of provident fund.

(iv) Daily wagers and semi skilled workers who has service of more than 15 years will be considered as permanent worker and such semi skilled workers will get current pay scale of skilled worker along with dearness allowance, local city allowance and house rent allowance. They will get benefit as per the prevailing rules of gratuity, retired salary, general provident fund. Moreover, they will get two optional leave in addition to 14 misc. leave, 30 days earned leave, 20 days half pay leave, Sunday leave and national festival holidays. The daily wage workers and semi skilled who have completed more than 15 years of their service will get one increment, two increments for 20 years service and three increments for 25 years in the current pay scale of skilled workers and their salary will be fixed accordingly.

26. Considering, the facts and circumstances of the case, the finding of Gujarat High Court dated 29th October, 2010 in SCA No.8647/2008 and connected matters and the fact that the said judgment is binding between the parties, we are

*of the view that the appellants should be directed to grant the benefit of the scheme as contained in the Resolution dated 17<sup>th</sup> October, 1988 to all the daily wage workers of the Forest and Environment Department working for more than five years, providing them the benefits as per our finding at Paragraph 25 above. The appellants are directed accordingly. The judgment and order passed by the learned Single Judge dated 29th October, 2010 as affirmed by the Division Bench by its order dated 28th February, 2012 stands modified to the extent above. The benefit should be granted to the eligible daily wage workers of the Forest and Environment Department working for more than five years including those who are performing work other than building maintenance and repairing but they will be entitled for the consequential benefit w.e.f. 29th October, 2010 or subsequent date from which they are so eligible within four months from the date of receipt/production of the copy of this order. The appeals stand disposed of with the aforesaid observation and directions to the appellant-State and its authorities. There shall be no separate orders as to costs."*

7. The Review Petitions filed by the State Government against this judgment have now been dismissed by the Supreme Court, vide order dated 29.01.2014, passed in Review Petition (C) Nos.2826 and 2827 of 2013 in Civil

Appeal Nos.5321- 5322 of 2013. In the view of this Court, there remains no impediment at all, on the part of the State Government in extending the benefits of the Government Resolution dated 17.10.1988, to the petitioners subject to their fulfilling the requisite conditions.

8. In view of the above, the following order is passed:

The respondents shall examine the cases of petitioners individually and, if found eligible, shall extend the benefits of the Government Resolution dated 17.10.1988, to them, as per the directions of the Supreme Court. The needful be done within a period of four months from the date of the receipt of a copy of this order.

9. The petitions are allowed to the above extent. Rule is made absolute, accordingly, in each petition.

**(SMT. ABHILASHA KUMARI, J.)**

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