

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 12632 of 1993

CORAM : HONOURABLE MR.JUSTICE C.L. SONI

Date Of Judgment: 01/05/2012

SUBODHCHANDRA GHELABHAI DESAI

Versus

STATE OF GUJARAT & 6

Cases Referred:-

- (1) A.K. Bhatnagar and others Vs. Union of India and others reported in (1991)1 SCC 544,
- (2) Subhash, S/o. Shriram Dhonde Vs. State of Maharashtra and Another reported in 1995 Supp(3) SCC 332,
- (3) Govt. of A.P. and Another Vs. M. Adbuta Rao reported in (2005)12 SCC 258,
- (4) Abhijit Ghosh Dastidar Vs. Union of India and others reported in (2009)16 SCC 146,
- (5) Dev Dutt Vs. Union of India and others reported in (2008)8 SCC 725
- (6) M.V. Thimmaiah and others Vs. Union Public Service Commission and others reported in (2008)2 SCC 119

CAV JUDGMENT

1. This petition under Article 226 of the Constitution of India is filed for the following reliefs:-
“17(A) to call for the Annual Confidential Reports of the petitioner as well the respondent Nos.3 to 7 herein for the perusal of this Hon’ble Court;
(B) to direct the respondent No.1 herein to produce the norms and procedure adopted by the Departmental Promotion committee in the year 1993 for the purpose of selection of Chief Engineers (Civil) and also to produce the norms and procedure adopted by the Departmental promotion Committee in the past for the purpose of selecting Chief Engineer (Civil);
(C) to quash and set aside the promotions of the respondent Nos.3,4 and 5 herein and the action of placing the names of the respondent Nos.6 and 7 in the select-list prepared for the purpose of giving promotion to the post of Chief Engineer (Civil) and to direct the respondent No.1 herein to promote the petitioner to the post of Chief Engineer (Civil);
(D) Pending notice, admission and final disposal of this petition to direct the respondent No.1 not to operate the select -list prepared for the purpose of giving promotions to the post of Chief Engineer (Civil) any further;
(E) to grant such other and further relief as may be deemed just and proper;
(F) to provide for the costs of this petition.”

In fact, the main grievance in the petition is that respondent Nos. 4 to 7 though juniors to the petitioner, came to be promoted bypassing the claim of the petitioner. The petitioner has also averred that the petitioner has outstanding career and is efficient in working and therefore, promotion granted to his juniors was illegal and arbitrary.

Under the statutory rules for promotion, as per Rule 2, appointment by promotion is to be on the basis of selectivity from amongst the persons who entered into zone of consideration irrespective of their seniority. The petitioner had already entered in the zone of consideration with other 20 persons. After the petitioner entered in the zone of consideration, DPC was required to