



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/LETTERS PATENT APPEAL NO. 526 of 2024  
In R/SPECIAL CIVIL APPLICATION NO. 8604 of 2022**

**With**

**CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2024  
In R/LETTERS PATENT APPEAL NO. 526 of 2024**

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GUJARAT STATE LAND DEVELOPMENT CORPORATION LTD. & ANR.

*Versus*

PRAVINKUMAR BALCHANDBHAI PREMAL

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**Appearance:**

MR HS MUNSHAW(495) for the Appellant(s) No. 1,2

MR.K.B.PUJARA, ADVOCATE with MR.VICKY MEHTA, ADVOCATE for the  
Respondent(s) No. 1

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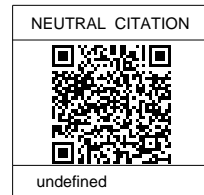
**CORAM:HONOURABLE MR. JUSTICE BIREN VAISHNAV  
and  
HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

**Date : 08/05/2024**

**ORAL ORDER**

**(PER : HONOURABLE MR. JUSTICE PRANAV TRIVEDI)**

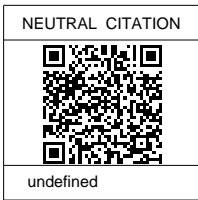
[1] The present Letters Patent Appeal under Clause 15 of the Letters Patent is filed by the appellants - original respondents assailing the correctness of the judgment and order dated 26.03.2024 passed by the learned Single Judge in Special Civil Application No.8604 of 2022.



[2] The prayer made in the writ petition before the learned Single Judge was to direct the respondents to pay forthwith all the retirement benefits including the full amount of PF, full amount of Gratuity, full amount of medical, Group Insurance and Leave Salary etc.

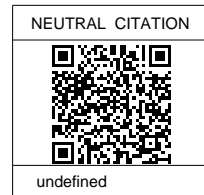
[3] Learned Single Judge after considering the arguments canvassed by learned advocates appearing on behalf of both the parties was pleased to allow the writ petition with certain directions of releasing the amount of retirement benefits. It is this order of the learned Single Judge which is assailed in the present appeal.

[4] The factual matrix which has led to filing of writ petition was that the original petitioner was appointed as Field Supervisor and was posted at various places. Thereafter, he was promoted to the post of Soil Conservator Officer w.e.f. 04.01.2017 and he retired from service on 30.06.2019 on reaching the age of superannuation of 58 years. When the petitioner was promoted as Soil Conservator Officer and posted at Dharampur, District : Valsad, certain criminal complaints /



FIR came to be filed against the petitioner. Pursuant to the FIR, bail application under Section 439 of the Code of Criminal Procedure was filed by the petitioner and he was subsequently granted bail. However, when the petitioner retired on 30.06.2019, he was not given retirement dues. The petitioner waited for almost two years and nine months and the retirement dues were not given to the petitioner.

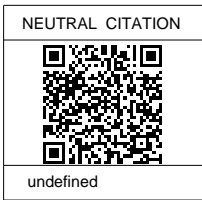
[4.1] It was the case of the petitioner that Rule 145 of the Gujarat Civil Service (Pension) Rules, 2022 (hereinafter referred as “the Rules”) clearly provides that if the departmental inquiry or prosecution is not concluded even after two years of retirement, then 100% of pension and gratuity shall be paid, subject to withholding of 10% or Rs.15,000/- whichever is less. However, despite such clear cut provisions, the original respondents did not give him retirement dues. Therefore, the petitioner was constrained to approach this Court by way of filing a writ petition being Special Civil Application No.8604 of 2022. By way of an order dated 26.03.2024, the learned Single Judge allowed the writ petition giving certain directions, which is now assailed in the present Letters Patent Appeal.



[5] We have heard Mr. H. S. Munshaw, learned advocate appearing for the appellants and Mr. K. B. Pujara, learned advocate with Mr. Vicky Mehta, learned advocate appearing for the respondent, on advance copy.

[6] Mr. Munshaw, learned advocate appearing for the appellants submitted that the respondent was involved in 26 cases relating to various large scale financial irregularities and corrupt practice. It was further submitted that all 26 FIRs were lodged against him in different police stations and therefore, he would not be entitled to any retirement benefits. It was further submitted that the respondent herein would not be entitled to such retirement benefits, as large scale financial irregularities are done by him and there are proceedings, which are pending in different courts of law. On the basis of such submission, Mr. Munshaw, learned advocate urged to entertain the present Letters Patent Appeal.

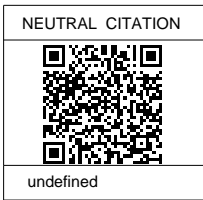
[7] A categorical question was put-forward to Mr. Munshaw, learned advocate for the appellants as to whether there was any provision which would estop the appellants from giving the



retirement dues to the respondent. Reliance was placed by the respondent on Rule 145 of the Rules which had clearly envisaged that if the departmental inquiry or prosecution was not concluded even after two years, then on certain conditions, the dues had to be paid. Mr. Munshaw, learned advocate was not in a position to provide any provision which would estop the respondent from having retirement dues. Therefore, we see no anomaly in the conclusion arrived at by the learned Single Judge. Therefore, we completely agree with the observations made by the learned Single Judge. The observations made by learned Single Judge are as follows:-

*“6. Considering the submissions, to this Court while it appears that the respondents could have withheld the retiral benefits of the petitioner, till a period of two years from the date of retirement as per the provisions of the Gujarat Civil Services ( Pension) Rules, yet, upon completion of two years the Government Employee is entitled to all the retiral benefits except 10% or Rs. 15000/- of gratuity. Such an observation since the petitioner is governed under the Contributory Provident Fund scheme therefore, there is no question of being entitled to pension /provisional pension.*

*7. At this stage, it would be also relevant to mention that while the respondents are relying upon the FIRs in which the petitioner is arraigned as an accused, yet it would appear that even after around seven years of the FIR being filed, no departmental charge-sheet appears to have been issued against*



*the petitioner and no action departmentally appears to be taken which could have probably empowered the respondents to withhold the retiral benefits as could be paid to the petitioner.*

*8. Again while it appears that the respondent is contesting the right of the petitioner for amounts of leave encashment and Group Insurance, yet, there is no policy of the respondents which is relied upon on basis of which this Court could approve such a decision. On the other hand, nothing otherwise is stated/ produced by the petitioner whereby the entitlement of the petitioner could be confirmed inspite of a contrary stand by the respondents. Hence at this stage the issue requires to be relegated to the respondents for taking an appropriate decision in accordance with law."*

[8] Accordingly, the present Letters Patent Appeal being devoid of merits is hereby dismissed. No order as to costs.

[9] Civil Application stands disposed of in view of the dismissal of the Letters Patent Appeal.

**(BIREN VAISHNAV, J.)**

**(PRANAV TRIVEDI, J.)**

DHARMENDRA KUMAR