

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(s). OF 2024
(Arising out of SLP(C) No. 19195/2022)

STARPAYAL NATARAJAN IYER

APPELLANT(S)

VERSUS

THE STATE OF GUJARAT & ANR.

RESPONDENT(S)

ORDER

Leave granted.

By order dated 24.01.2022, learned Single Judge of the High Court of Gujarat in R/Special Civil Application No. 364 of 2022 dismissed the aforesaid Special Civil Application on the ground of delay. The appellant herein had approached the Court seven years after the order had been passed on 05.09.2014 and therefore, there was delay in moving the Court was the reasoning of the High Court.

Being aggrieved by the said order, the appellant herein preferred R/Letters Patent Appeal No. 262 of 2022. By the impugned order(s) dated 28.06.2022, the Division Bench of the Gujarat High Court dismissed the appeal as well as the special civil application on the ground that the learned Single Judge was right in dealing with the matter and the High Court was not inclined to entertain

the appeal on the ground of delay and laches in filing the Special Civil Application. Hence, this appeal.

Learned counsel for the appellant submitted that the High Court ought not to have dismissed the Special Civil Application on the ground of delay and laches without going into the merits of the matter as the payment of pension is a monthly occurrence and therefore, the cause of action would have accrued to the appellant herein every month. At best, the High Court could have moulded the reliefs sought for by the appellant herein. He next submitted that the High Court was not right in concluding that the order dated 05.09.2014 was not assailed in the appeal, inasmuch as the appellant herein had accepted the said order and on the basis of the said order had sought for retirement benefits. Therefore, this Court may set aside the impugned order(s) and consider the case of the appellant viz-a-viz his entitlement to terminal/retirement benefits.

Per contra, learned counsel appearing for the respondent-State supported the impugned order(s) and contended that the appellant had remained silent for seven to eight long years. It implies that he had acquiesced to the fact that he

was not entitled to any terminal benefit or pension. Moreover, he had not assailed the order dated 05.09.2014 and hence, there is no merits in this appeal.

We have considered the arguments advanced at the Bar in light of the impugned order(s) and the material on record. We find that the payment of pension is not a bounty but a recurring occurrence as stated by D.A. Desai, J. in *D.S. Nakara and Ors. Vs. Union of India: (1983) 1 SCC 305: AIR 1983 SC 130*. For ease of reference, the relevant paragraphs may be quoted as under:

"31. From the discussion three things emerge:

(i) that pension is neither a bounty nor a matter of grace depending upon the sweet will of the employer and that it creates a vested right subject to 1972 Rules which are statutory in character because they are enacted in exercise of powers conferred by the proviso to Article 309 and clause (5) of Article 148 of the Constitution;

(ii) that the pension is not an ex gratia payment but it is a payment for the past service rendered; and

(iii) it is a social welfare measure rendering socio-economic justice to those who in the hey-day of their life ceaselessly toiled for the employer on an assurance that in their old age they would not be left in lurch."

In the circumstances, we find that the High Court was not right in dismissing the Special Civil

Application on the ground of delay and laches. Instead, the High Court ought to have considered the case of the appellant on merits and on the basis of the applicable rules and decided the matter on the entitlement of the appellant towards pension and other terminal benefits.

Therefore, on the aforesaid reason, we set aside the impugned order(s) and remit the matter to the learned Single Judge of the High Court for reconsideration of the Special Civil Application No. 364 of 2022 filed by the appellant herein.

It is needless to observe that the said reconsideration shall be made expeditiously and in accordance with law.

The present appeal is allowed and disposed of in the aforesaid terms.

Pending application(s), if any, shall stand disposed of.

.....J.
[B.V. NAGARATHNA]

.....J.
[PANKAJ MITHAL]

NEW DELHI;
NOVEMBER 05, 2024.

ITEM NO.32

COURT NO.9

SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No. 19195/2022

(Arising out of impugned final judgment and order dated 28-06-2022 in LPA No. 262/2022 passed by the High Court Of Gujarat At Ahmedabad)

STARPAYAL NATARAJAN IYER

Petitioner(s)

VERSUS

THE STATE OF GUJARAT & ANR.

Respondent(s)

(IA No. 162046/2022 - EXEMPTION FROM FILING O.T.)

Date : 05-11-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. Ajay Kumar, AOR
Mr. Avinish Kumar Saurabh, Adv.
Mr. Nirmal Kishore, Adv.

For Respondent(s) Ms. Deepanwita Priyanka, AOR
Mr. Kanu Agarwal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The present appeal is allowed and disposed of in terms of the signed order which is placed on the file.

Pending application(s), if any, shall stand disposed of.

(SNEHA DAS)
SENIOR PERSONAL ASSISTANT

(DIVYA BABBAR)
COURT MASTER (NSH)