

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4433 OF 2017

(@ Special Leave Petition No. 31056/2014)

HASMUKHBHAI ODHAVJI VYAS

APPELLANT (S)

VERSUS

STATE OF GUJARAT AND ORS

RESPONDENT (S)

O R D E R

Leave granted.

Heard learned counsel for the parties.

The issue is that the question involved in the present appeal is whether the appellant is entitled to count the Military Service as a part of pensionable service.

It is undisputed that the appellant joined service in Civil Court on 05.01.1980. Prior to that, he had put in about nine years and 232 days of Military Service.

The claim of the appellant is based on Rule 29 of the Gujarat Civil Services (Pension) Rules, 2002 which is as follows:

"Cases in which Military Service to be counted as service for pension: A competent authority may be general or special order direct that the Military service performed by a Government employee, after attaining the age of eighteen years, who before entering civil services was in Military Services but did not earn a pension in Military Services, shall be treated as service qualifying for pension. In issuing such an order, the appointing authority shall specify the method by which the amount of service shall be calculated and may impose such conditions which it may think fit."

The High Court rejected the claim on the ground that though the Military Service could be counted towards service for pension, the appellant was not actually getting any pension for service.

We are of the view that though the appellant was not getting any pension, the service in which the appellant was engaged in the Military was a pensionable service which attracts Rule 29 to the benefit of the appellant.

Accordingly, we allow this appeal and direct that the Military Service of the appellant be counted towards the pensionable service.

.....J.
(ADARSH KUMAR GOEL)

.....J.
(UDAY UMESH LALIT)

NEW DELHI
MARCH 24, 2017

ITEM NO.49

COURT NO.13

SECTION IX

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(s) for Special Leave to Appeal (C) No(s). 31056/2014

(Arising out of impugned final judgment and order dated 25/08/2014 in LPA No. 1331/2012 25/08/2014 in SCA No. 3774/2007 passed by the High Court Of Gujarat At Ahmedabad)

HASMUKHBHAI ODHAVJI VYAS

Petitioner(s)

VERSUS

STATE OF GUJARAT AND ORS

Respondent(s)

(with interim relief and office report)

Date : 24/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Jatin Zaveri, AOR
Mr. Neel Kamal Mishra, Adv.

For Respondent(s) Mr. Aniruddha P. Mayee, Adv.
Mr. A. Selvin Raja, Adv.

Ms. Hemantika Wahi, Adv.

Mr. Jesal Wahi, Adv.

Ms. Puja Singh, Adv.

Ms. Mamta Singh, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The Civil Appeal is allowed in terms of the signed order.

(SONALI SAUND)

SR.P.A

(VEENA KHERA)

COURT MASTER

(signed order is placed on the file)