



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 10055 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

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Approved for Reporting	Yes	No
	YES	
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RAKESHKUMAR RAVIKUMAR AMIN
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MR DIPAN DESAI(2481) for the Petitioner(s) No. 1
MR ADITYA PATHAK ASSTT. GOVERNMENT PLEADER for the
Respondent(s) No. 1,2

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CORAM: HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 25/06/2026

ORAL JUDGMENT

1. Heard learned Senior Advocate Mr. Shalin Mehta with learned advocate Mr. Dipan Desai for the petitioner and learned AGP Mr. Aditya Pathak for respondent State.
2. By way of this petition, the petitioner challenges the order dated 30.04.2025, passed by the Finance Department of the State Government, whereby the petitioner in exercise of powers conferred under Rule 10(4) of the Gujarat Civil Services (Pension) Rules, 2002, has been prematurely retired w.e.f. 30.04.2025 in public interest.
3. Brief facts leading to the filing of this petition being that the



petitioner had originally been appointed as an Accounts Officer, Cl. II, in the District Panchayat Education Committee, Surendranagar, vide order dated 18.12.1999 by Director of Accounts and Treasuries. It appears that the petitioner had been transferred as Accounts Officer in various departments and whereas vide an order dated 15.07.2008, the petitioner was promoted to the post of Accounts Officer, Class-II (Junior Duty) and posted as Accounts Officer with the Controller, Legal Metrology, Weights and Measures. It appears that the applicant had been transferred on few occasions thereafter and whereas the petitioner was further promoted vide an order dated 03.01.2020 to the post of Deputy Director, Class-I (Senior Duty) and posted as Deputy Director, Gujarat Informatics Limited. It appears that while working in the Gujarat Informatics Limited, the petitioner alleges to have noticed some illegal activities by the subordinate officers and vide an Email dated 26.05.2022, the petitioner had sent Email to the Managing Director of the Gujarat Informatics Limited requesting him to take legal action against the subordinate officers, more particularly to file a police complaint etc. It appears that the petitioner had on the very next date being transferred as Chief Accounts Officer, Gujarat University, Ahmedabad, by way of deputation. It is the case of the petitioner that while the petitioner had released immediately, he was not permitted to resume by the Gujarat University. Be that as it may, it appears that on 04.06.2022, an FIR had been lodged against the petitioner and other accused for alleging commission of offences under Sections 34, 204, 406, 409, 465, 468, 471, 477-A and 120-B of Indian Penal Code, Sections 447 and 452 of Companies Act, 2013 read with Sections 13(1)(A), 13(2) of the Prevention of Corruption Act. It appears that the petitioner had been arrested in connection with the above FIR on 02.01.2023 and whereas since the petitioner was in custody for more than 48 hours, the petitioner came to be



suspended vide order dated 17.02.2023. It also appears that the State Government had initiated departmental proceedings against the petitioner by issuing charge-sheet to the petitioner on 28.03.2024. It also appears that the State had appointed an Inquiry Officer and whereas the Inquiry Officer had submitted his report after the order passed by the State Government on 30.04.2025 and whereas pursuant to the second show cause notice issued, the petitioner had submitted his reply on 01.07.2025. It also appears that a second charge-sheet had also been issued to the petitioner on 24.10.2024 as regards the alleged unauthorized absence of the petitioner from 01.06.2022 to 01.01.2023. The petitioner being aggrieved and dissatisfied by the order of premature retirement, has approached this Court by preferring the present petition.

4. Heard learned Senior Advocate Mr. Shalin Mehta, who would assail the order of premature retirement by submitting that the order requires interference only on the ground that the same had been passed as a shortcut to avoid departmental proceedings. Learned Senior Advocate would submit that the relevant dates would clearly reflect the position that while the petitioner had been facing the departmental charge-sheet, where the proceedings were going on, another charge-sheet had been issued and during the pendency of the departmental charge-sheet, the petitioner had been prematurely retired. It is submitted that the law as laid down by the Hon'ble Apex Court in so far as prematurely retiring a Government servant upon the Government servant attaining the age of 50 – 55 years, is now crystallized inasmuch as while the State is entitled to relieve a public servant, who is no longer useful to the general administration and whereas the order of prematurely retirement is not to be treated as punishment under Article 311 of the Constitution, yet, the entire service records of the officer has to



be taken into consideration before passing such an order. It is submitted that the petitioner in his career, had been promoted twice and the last promotion being in the month of January, 2020, ideally the period after the said promotion would have to be taken into consideration. It is submitted that the petitioner has not been communicated any adverse entry after the said period and under such circumstances, the petitioner could not be relieved by branding him an inefficient officer, who is no longer useful to the administration. Learned Senior Advocate would submit that the except for the departmental inquiry, there is no other material, whereby any adverse inference could be drawn against the efficiency of the present petitioner. Learned Senior Advocate has relied upon the following decisions of the Hon'ble Supreme Court.

1. Baldev Raj Chadha Vs. Union of India
(1980(4) SCC 321)
2. J.D. Srivastava Vs. State of Madhya Pradesh
(1984(2) SCC 8)
3. Ram Ekbal Sharma Vs. State of Bihar
(1990(3) SCC 504)
4. State of Orissa Vs. Ram Chandra Das
(1996(5) SCC 331)
5. (The) State of Gujarat & Anr. Vs. Suryakant Chunilal Shah
(1999(1) SCC 529)
6. State of Gujarat Vs. Umedbhai M. Patel
(2001(3) SCC 314)
7. D.M. Patel Vs. Housing Commissioner
(Special Civil Application No.9045 of 2002)
8. Nand Kumar Verma Vs. State of Jharkhand & Ors.



- (2012(2) GLH 158)
9. Paschim Gujarat Vij Co. Ltd. Vs. Jayendra ChimanlalShah
(Letters Patent Appeal No.918 of 2016)
10. Nisha Priya Bhatia Vs. Union of India
(2020(13) SCC 56)
11. Central Industrial Security Forces Vs. Hc (Gd) Om Prakash
(2022(5) SCC 100)
12. Gujarat Housing Board Vs. D.M. Patel
(2022(3) GLR 2246)
13. Captain Pramod Kumar Bajaj Vs. Union of India
(2023(11) SCC 466)

5. As against the same, the present petition has been vehemently contested by the learned AGP Mr. Aditya Pathak on behalf of the State. Learned AGP would rely upon the affidavit in reply filed by the State and would submit that the decision of the State Government dated 30.04.2025 i.e. the impugned order was passed on basis of the decision dated 07.01.2025 by the Review Committee constituted for the purpose of reviewing of the case of the petitioner and other such persons for continuation in service after completion of 50 – 55 years. It is submitted that the Committee has taken into consideration relevant materials including the service records, confidential report / performance appraisal report, departmental charge-sheet issued to the petitioner and the criminal proceedings pending against the petitioner, the fact of details of suspension of the petitioner etc. It is submitted that basis the said material, the Review Committee has also come to a conclusion that the petitioner was an employee of doubtful integrity and whereas the Review Committee was well justified in taking such a decision. Learned AGP would also submit that by



now, it is a well settled position that an order prematurely retiring the petitioner is not punitive in nature and therefore, it does not attract the rigors of Article 311 of the Constitution of India and furthermore, the said order does not cast any stigma or aspersion upon the petitioner. Learned AGP would also submit that the decision of the Review Committee does not suffer from any infirmities and therefore, this Court may not interfere with the impugned order.

5.1 At this stage, it would also be pertinent to mention that the minutes of the meeting of Review Committee dated 07.01.2025, basis which the impugned order had been passed, have also been annexed with the present petition.

6. Heard learned advocates for the respective parties and perused the documents on record including the minutes of meeting of the Review Department, which had recommended that the petitioner be prematurely retired. The only question that arises for consideration of this Court having analyzed the submissions being whether the order of premature retirement is a punishment or whether the services of the petitioner are no longer useful to the general administration, which necessitated the order of premature retirement.

7. For answering the above question, at the outset, this Court deems it appropriate to refer to the provisions of law basis which the order in question has been passed by the authorities.

7.1 Rule 10(4)(a)(i) of the Gujarat Civil Services (Pension) Rules, 2002, being relevant for the present purpose, is reproduced herein below for



benefit.

“10(1)

10(2)

10(3)

10(4) Notwithstanding anything contained in sub-rule (1) of this rule, the appointing authority, if it is of the opinion that it is in the public interest so to do, by giving him three months' pay and allowances have the absolute right to retire-

(a) any Gazetted Government employee working under the State Government:-

(i) if he had entered Government service before attaining the age of thirty-five years, after he has attained the age of fifty years, and

(ii).....”

8. The above provision inter alia envisages that while every Government servant other than a Class IV employee would retire from service on the last day of the month in which he attains 58 years, an exception is provided in the above provision, whereby the appointing authority is empowered to prematurely retire the Government servant, if appointing authority is of the opinion that it is in public interest to do so. The exigency provided being that in case of a Government employee, who has entered the service before attaining the age of 35 years, then the consideration should be after he has attained age of 50 years and for an employee, who has entered after 35 years, the consideration of whether his services are required to be retained or not, would be after he has attained the age of 55 years.

9. At this stage, it would be relevant to refer the Government Resolution dated 29.09.2023, whereby the criteria to be followed while exercising the power under Section 10(4) of the Gujarat Civil Services (Pension) Rules, 2002, is concerned. The above Resolution inter alia lays



down a Government servant whose integrity is doubtful or who is found to be ineffective shall be retired and whereas the ineffectiveness should be considered in context of the competence of the officer concerned in the post held. The Resolution also inter alia lays down that if the Government servant is to be retired on the ground of ineffectiveness, his service during the preceding 5 years or where he has been promoted to a higher post during last 5 years and his services in higher post has been found satisfactorily then such Government servant should not be retired. However, in case, where a Government employee to be retired on doubtful integrity then the entries in the ACR / PAR be taken into account. Furthermore, it is laid down that the entire service record of a Government servant should be considered and even uncommunicated remarks in the ACR / PAR may be taken into consideration. On the other hand, it is laid down that the in case, a Government servant is promoted inspite of an adverse entry then such entry adverse would lose its thing.

10. The Resolution also lays down that the review of the performance of the Government employee would be done by a Committee.

11. Now, we would proceed to refer to the judgments of the Hon'ble Supreme Court in this regard, where the Hon'ble Supreme Court has laid down the law as regards exercise of powers and the consideration which would weigh with the State, while prematurely retiring a Government employee.

12. In this regard, it would be relevant to note that while the learned Senior Advocate appearing on behalf of the petitioner has referred to number of judgments, yet, to this Court, it would appear that the judgment



of the Hon'ble Supreme Court in the case of State of Gujarat Vs. Umedbhai M. Patel reported in 2001(3) SCC 314, would be the most relevant decision, since the decision is based on Rule 161(1) of the Bombay Civil Services Rules, 1959, which Rule has now been incorporated in the Gujarat Civil Services (Pension) Rules as Rule 10(4)(1). It also clearly appears that the Hon'ble Supreme Court has analyzed various decisions prior to the date of decision in the case of Umedbhai Patel and whereas the said decision of Umedbhai Patel and has crystallized the principles as regards the law relating to compulsory (premature) retirement. Para 11 of the said decision being relevant for the present purpose, is reproduced hereinbelow for benefit:

“11. The law relating to compulsory retirement has now crystallized into definite principles, which could be broadly summarised thus:

(i) Whenever the services of a public servant are no longer useful to the general administration, the officer can be compulsorily retired for the sake of public interest.

(ii) Ordinarily, the order of compulsory retirement is not to be treated as a punishment coming under [Article 311](#) of the Constitution.

(iii) For better administration, it is necessary to chop off dead-wood, but the order of compulsory retirement can be passed after having due regard to the entire service record of the officer.

(iv) Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.

(v) Even uncommunicated entries in the confidential record can also be taken into consideration.

(vi) The order of compulsory retirement shall not be passed as a short cut to avoid departmental enquiry when such course is more desirable.

(vii) If the officer was given a promotion despite adverse entries made in the confidential record, that is a fact in favour of the officer.

(viii) Compulsory retirement shall not be imposed as a punitive measure.”

13. Before analyzing the law laid down by the Hon'ble Supreme Court, it



would be relevant to observe that the learned Senior Advocate for the petitioner has inter alia challenged the decision of premature retirement on the ground that there was no adverse material against the present petitioner in his entire service record, therefore, there was no material basis which the Committee could have come to a conclusion that the services of the petitioner was no longer useful to the general administration and it is further contended that the order of premature retirement was a shortcut to avoid the departmental proceedings.

14. As against the same, learned AGP for the State relying upon the affidavit in reply, has submitted that the Committee has considered the relevant material including the service record, ACR / PAR etc. It also appears that the Committee has also taken into consideration as per the affidavit in reply, the departmental charge-sheet issued to the petitioner, the criminal proceedings pending against the petitioner, details of suspension etc.

15. Thus, the question would be as to whether there was any material available with the Committee to declare the petitioner as an ineffective employee or whether the premature retirement were a shortcut to avoid the departmental proceedings.

16. The Hon'ble Supreme Court has analyzed the law and has crystallized definite principles with regard to exercising powers of premature retirement and whereas the law as laid down being that the State is entitled to prematurely retire a public servant, if there is material to show that the services of the public servant are no longer useful to the general administration and the order of premature retirement is not a punishment,



which would be covered under Article 311 of the Constitution of India. The State is entitled to resort to premature retirement, if the public servant is deemed to be ineffective after having due regard to his entire service records. Any adverse entry in the confidential record would be an important factor to be considered, while passing an order of premature retirement. The State is also entitled to rely upon uncommunicated entry in the confidential report. That premature retirement shall not be resorted to as a shortcut to avoid the departmental inquiry, when such course is more desirable. If an officer is given promotion despite the adverse entry in the confidential record, then the same would be a factor, which would weigh in favour of the employee premature retirement should not be resorted as a punitive measure.

17. At this stage, it would be expedient to refer to the minutes of meeting of the Committee, which has recommended that the petitioner be prematurely retired, more particularly since it would be the material and the appreciation thereof, basis which the Court could pass a final order. The said report has been annexed along with the affidavit in reply. Perusing the same, it would appear that the Committee has considered the fact that in the ACRs / PARs of the last 10 years, neither the petitioner has been issued any adverse remark nor there is any note with regard to the integrity of the petitioner being doubtful. The Committee also notes that the petitioner has been promoted as a Class I officer on 03.01.2020 and he has completed 5 years as such. The Committee also notes that the petitioner has not reported for duty without appropriately availing leave from a period from 10.06.2022 to 01.01.2023. The Committee also notes that the petitioner has been issued with two departmental charge-sheets and a criminal case is also pending against the present petitioner. The details of the departmental inquiry and



the criminal case have been briefly mentioned in the minutes. The Committee has also taken note of the period of suspension which the petitioner was undergoing.

18. The Committee has, thereafter opined that the Committee has evaluated the work of the petitioner as a Deputy Director (A/c.) at Gujarat Informatics Ltd. and that he has absolutely failed in doing the duty, which has been assigned to him effectively. The Committee therefore, has come to a conclusion that thus, the services of the petitioner are no longer required to be retained for general administration. Thus, the Committee opines that the petitioner is required to be prematurely retired under Section 10(4)(1) of the Gujarat Civil Services (Pension) Rules.

19. Considering the minutes of meeting from the perspective of the law laid down by the Hon'ble Apex Court, it would clearly appear to this Court that Committee did not have any material whatsoever to come to the conclusion that the services of the petitioner are no longer useful for public administration. To this Court, it would appear that the Committee clearly appears to be swayed by the consideration that there are two departmental inquiries and criminal prosecution pending against the petitioner. As such, the Committee appears to be well aware that in the last 10 years, neither had the petitioner been issued with any adverse remarks nor his integrity has been doubted. Again, considering the issue from a different angle, the petitioner was in service for a period of approximately 26 years and whereas while the Committee notes that for the last 10 years, there has not been any adverse entry or any adverse note on the integrity and whereas the Committee also notes that the petitioner has been promoted on 03.01.2020, yet, the Committee has only looked into the service record of the petitioner



in his last tenure prior to the order of premature retirement, which tenure, the petitioner was issued with one charge-sheet and a criminal prosecution and later on, a second charge-sheet had been issued for remaining unauthorized absence after the petitioner's tenure in Gujarat Informatics Ltd. was over. It would thus appear that apart from the departmental proceedings and the criminal prosecution, there was no material basis which the Committee could take a decision that the petitioner was an inefficient employee and that his services were no longer required for general administration.

19.1 To this Court, it would clearly appear that the Committee had resorted to the decision to prematurely retire the petitioner to avoid the departmental proceedings, since the only material, on which any adverse inference, though the same was not permissible, could be taken by the Committee was the departmental charge-sheets and the criminal prosecution. As noticed hereinabove, the law as crystallized by the Hon'ble Apex Court in the case of Umedbhai Patel (Supra) being that the entire service record of the officer, should be taken into consideration, yet, the entire service record including two promotions, no adverse entries and no note of the integrity being doubtful would not justify an order of premature retirement, there does not seem to be any such material against the petitioner.

20. As a matter of fact thought a Committee has taken a benchmark of 10 years for which period the service record was analyzed, yet as it is noticed that there was nothing against the petitioner during such a tenure. To this Court, it would appear that merely because of departmental charge-sheet was issued or a criminal prosecution is initiated, as laid down by the Hon'ble



Apex Court, a services of the employee could not be done away with by using extraordinary power of premature retirement.

21. While it is true that there are departmental charge-sheets issued against the petitioner and a criminal prosecution also issued against the petitioner, yet, that by itself would not mean that the petitioner is either guilty of the charges levelled against him in the departmental proceedings nor could it be presumed that the petitioner would be held guilty in the criminal trial. The department ought to have resorted to completing the departmental proceedings and whereas only in case the petitioner was held to be guilty of the charges levelled against him in the departmental proceedings or the charges levelled against him in the criminal trial, being proved beyond reasonable doubt, could the State resorted to doing away with the services of the petitioner using appropriate power, which is available with the State in that regard.

22. To this Court, it would clearly appear that the Committee not having any material to come to a conclusion that the petitioner was an ineffective employee, whose services are not required to be retained and since it clearly appears that the order of premature retirement is resorted to as a shortcut to avoid the departmental proceeding, to this Court, it would appear that the order of premature retirement acquires the status of being a punitive order and therefore, interference is required.

23. Considering the discussion, observations and conclusion arrived at, to this Court, the following directions would meet with the ends of justice:

24. The Notification dated 30.04.2025 prematurely retiring the petitioner



i.e. the impugned Notification is hereby quashed and set aside.

25. The State shall appropriately reinstate the present petitioner with all service benefits including but not limited to payment of arrears and considering the service of the petitioner as if the impugned Notification of premature retirement of the petitioner had never been passed at all. It is clarified that if the petitioner was under suspension when the order of premature retirement was passed, then the reinstatement shall be done appropriately, i.e. under suspension.

26. The above directions shall be complied with by the State within a period of six weeks from the date of the present order being uploaded on the portal of Gujarat High Court.

27. With the above direction, the present petition stands disposed of as allowed. Rule made absolute to the aforesaid extent.

Y.N. VYAS

(NIKHIL S. KARIEL,J)