IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 8522 of 2022

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE NIRZAR S. DESAI

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Approved for Reporting	Yes	No

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KANAIYALAL NAGJIBHAI ROT
Versus
STATE OF GUJARAT & ANR.

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Appearance:
KARTIK H BHATT(9313) for the Petitioner(s) No. 1
MR. BHARGAV V PANDYA(7103) for the Respondent(s) No. 2
NOTICE SERVED for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE NIRZAR S. DESAI**

Date : 10/02/2026

ORAL JUDGMENT

1. Leave to join In-charge General Manager (Personnel), Gujarat State Civil Supplies Corporation, Gandhinagar as respondent No.3 as per amendment tendered by learned advocate Mr. Kartik H. Bhatt appearing for the petitioner today. The same is taken on record and granted. To be carried out forthwith.

2. With the consent of parties, the matter is taken up for final disposal today itself. Hence, Rule. Learned Assistant Government Pleader Mr. Aditya Davda waives service of rule on behalf of respondent Nos.1 and 2 and learned advocate Mr. Bhargav Pandya waives service of rule on behalf of respondent No.3.

3. By way of this petition, the petitioner has challenged the order of termination dated 6.3.2021 passed by respondent No.3 and has prayed for quashing and setting aside all consequential and subsequent orders pursuant to the order dated 6.3.2021 and has prayed for a direction to the respondents to reinstate the petitioner to the post of Assistant Depot Manager with all consequential benefits

4. The facts stated by learned advocate Mr. Kartik Bhatt are as under :-

4.1 That the present petitioner was appointed as Assistant Depot Manager by the Gujarat State Civil Supplies Corporation on 21.05.2016 and joined service on 02.06.2016. The appointment was on fixed pay for a period of five years. Before the completion of the said period, an inspection was carried out on 27.01.2021 by the Deputy General Manager, Panchmahal of respondent

No. 3 Corporation, and no irregularities were found. It is stated by learned advocate Mr. Kartik Bhatt that thereafter, in February 2021, the Mamlatdar, Shahera conducted another inspection and found certain irregularities in the stock at the godown. Consequently, an FIR dated 20.02.2021, being FIR No. 11207061210114 of 2021, was registered at Shahera Police Station, District Panchmahal, under Sections 406, 409, 420, and 120B of the Indian Penal Code, along with Sections 3 and 7 of the Essential Commodities Act.

4.2 In view of the registration of the aforesaid FIR, the petitioner's services were terminated vide the impugned order dated 06.03.2021 without following due procedure of law. Since the petitioner's contractual period had not expired and the petitioner was on probation, learned advocate Mr. Kartik Bhatt submitted that, considering the language of the order, the termination can be termed a stigmatic order. Therefore, in view of the catena of decisions of this Court, the impugned order, being stigmatic and based on the criminal case registered against the petitioner, is illegal and is required to be quashed and set aside.

5. Mr. Kartik Bhatt, learned advocate

appearing for the petitioner relied upon the latest decision of this Court dated **04-10.12.2024 in case of Rakeshkumar Bhursingbhai Katara V/s. State of Gujarat in Special Civil Application No. 22588 of 2022 and allied matters** and submitted that while allowing the petitions of those petitioners, this Court has elaborately considered the decision of this Court right from the decision in the case of State of Guajrat V/s. Chetan Jayantilal Rajgor dated 24.07.2020 passed in Letters Patent Appeal No. 1596 of 2019 and other decisions including the latest decision of the Hon'ble Supreme Court in case of Swati Priyadarshini V/s. State of Madhya Pradesh and others reported in 2024 SCC Online SC 2139 and therefore, present case is squarely covered by the above decision and therefore, the petitioner's termination order is bad in law and the same is deserves to be quashed and set aside and the petitioner is required to be reinstated on his original post.

6. Mr. Aditya Davda, learned AGP appearing for the respondent – State vehemently opposed the petition and submitted that the petitioner was found to have indulged into misconduct which would dis-entitle him from serving any further. He submitted that in view of registration of FIR against the present petitioner for an offence

under the Prevention of Corruption Act, the present petitioner's services are rightly terminated. Learned AGP also submitted that there are Special Leave Petition pending before the Hon'ble Supreme Court whereby the Hon'ble Supreme Court has vide interim order dated **17.09.2024 passed in case of State of Gujarat V/s. Hiralben Navinchandra Dholakiya in Special Leave Petition Civil (Diary) No. 37835 of 2024** has stayed the impugned order of this Court. Similarly, the Hon'ble Supreme Court has vide interim order dated **14.12.2023 passed in the case of The State of Gujarat V/s. Ashishbhai Chandrakantbhai Solanki in Special Leave Petition (Civil) No. 23698 of 2022** has stayed the impugned order of this Court whereby the order of stigmatic termination was quashed by this Court and she therefore, prayed for dismissal of this petition.

6.1 He further submitted that the authority has taken into consideration the Government Resolution dated 16.02.2006 r/w Government Resolution dated 20.10.2015 and Government Resolution dated 28.03.2016 and by virtue of powers flowing from the provisions of above Government Resolutions, the order of termination was passed and therefore, the same is absolutely just, legal and proper.

6.2 Additionally, it was submitted by learned AGP that in view of specific provision in the Government Resolution dated 28.3.2016 and more particularly, Clause No.14 (A), the authority has power to terminate the services of the present petitioner and as the principles of natural justice are complied with, such order cannot be said to be stigmatic. It was also submitted that in view of the fact that special panel was constituted and the petitioner was granted sufficient opportunity of personal hearing, the same would amount to holding an inquiry and, therefore, this Court may not interfere with the impugned order of termination and dismiss the petition.

7. In rejoinder, learned advocate Mr. Kartik Bhatt submitted that the submission in respect of pendency of Special Leave Petition before the Hon'ble Supreme Court has already been considered by this Court in its judgment in case of Rakeshkumar Bhursingbhai Katara (supra) and as far as the submission about the powers to terminate the services of the petitioner flowing from Government Resolution dated 16.02.2006 r/w Government Resolution dated 20.10.2015 and Government Resolution dated 28.03.2016 are concerned, the same would be absolutely

insignificant in light of catena of decisions by the Hon'ble Supreme Court holding that once the termination order is found to be stigmatic then in that case the termination order must go and therefore, the petition is required to be allowed.

8. I have heard the learned advocates for the parties and perused the record. I have also considered the order dated 13.04.2022 whereby the petitioner's services are terminated. On perusal of above order, I found that there is a reference about the FIR registered against the present petitioner under the Prevention of Corruption Act and as the entire order is based on the above premises on registration of FIR against the present petitioner, prima facie, the impugned order can be said to be a stigmatic order.

9. This Court had on occasion to consider the similar set of facts in respect of stigmatic termination and while dealing with this aspect, this Court by considering series of decisions on the subject and more particularly, in the case of **Rakeshkumar Bhursingbhai Katara (supra)** by taking into consideration the recent decision of the Hon'ble Supreme Court in case of **Swati Priyadarshni (Supra)** observed in paragraphs

Nos.14 to 18 as under :-

> "14. Further, very recently, the Hon'ble Supreme Court in the case of **Swati Priyadarshini v. State of Madhya Pradesh and others, 2024 SCC Online SC 2139 (Supra)** has while allowing the appeal preferred by the appellant, made the following observations in paragraphs 29 to 36 as under :-
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> **ANALYSIS, REASONING AND CONCLUSION :**
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> 29. Having bestowed our anxious consideration to the lis, we find that the interference of the Division Bench with the judgment dated 20.06.2017 of the learned Single Judge, has to be interdicted at our hands.
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> 30. A bird's eye views reveals thus. The appellant topped the revised Merit List, leading to her appointment as an APC. While serving as such, complaint(s) against her, in brief, were that she was not performing her duties, primarily on two counts – (i) not punctual in attending to her duties, and; (ii) not correctly reported with regard to the events in the hostel. As against these, the appellant's response, via her replies to the SCNs, is that she, inter alia, frankly admits to being late on occasion, but to compensate for her late-coming, she used to sit till late evening in the office for completion of work. On this count, the Respondents cannot be faulted. It is no justification for the appellant to contend that she was late, but worked late/overtime such that the work did not suffer. However, as borne out from the record, with regard to the hostel, charge was given to her for only 5/6 days. As such, in our view, it cannot

be said that within such a short period, the appellant, without fully understanding the attendant issues, could have straightaway given any opinion/report on the hostel. Be that as it may, this case turns on our findings infra.

31. Clause 4 of the RGPSM's General Service Conditions under the heading "Resignation/Termination" provides as below :-

"Persons working on contract can be **terminated with one month notice if found inefficient.** In case of **persons found indulged in undesirable activities amounting to degradation of dignity of Mission, Mission Director shall reserve right to terminate him/her with immediate effect.**"

(emphasis supplied)

32. Perusal of Clause 4 makes it clear that ordinarily, for inefficiency, one month's notice is sufficient. The Clause also makes it clear that if someone is found to have indulged in "undesirable activities", the Mission Director was competent to terminate such person's services "with immediate effect". We are afraid that the Respondents have placed themselves in a Catch-224 situation. If the order dated 30.03.2013 falls within the former part of Clause 4, as contended by the respondent, on the premise that it is a case of termination simpliciter and non-stigmatic, then one month's notice was required to be issued to the appellant, which admittedly was not done in the instant matter. Arguendo, were the order dated 30.03.2013 to be seen as falling under the latter part of Clause 4, it would be stigmatic, as made clear by the use of the words "indulged in undesirable

activities amounting to degradation of dignity of Mission".

33. In either of the above-noted eventualities, the Impugned Judgment would have to necessarily be set aside. Nevertheless, let us examine the reasoning of the Division Bench, which opined that the order is non-stigmatic and simpliciter non-renewal of contract. The order dated 30.03.2013 was, quite obviously, the culmination of the process set into motion by the two SCNs, which has been overlooked by the Division Bench. The mere non-mention of the background situation or the SCNs in the order dated 30.03.2013 cannot, by itself, be determinative of the nature of the order. As held by this Court in Samsher Singh v State of Punjab, (1974) 2 SCC 8315 and Anoop Jaiswal v Government of India, (1984) 2 SCC6, the form of an order is not its final determinant and the Court can find out the real reason and true character behind terminating/removing an employee. Moreover, the Impugned Judgment also does not deal with Clause 4. Interestingly, this Clause also escaped the attention of or/and was not brought to the notice of the learned Single Judge either.

34. It is profitable to refer to what five learned Judges of this Court laid down in Parshotam Lal Dhingra v Union of India, 1957 SCC OnLine SC 5:

"**28.** The position may, therefore, be summed up as follows **: Any and every termination of service is not a dismissal, removal or reduction in rank. A termination of service brought about by the exercise of a contractual right is not per se dismissal or removal**, as has been held by this Court in Satish Chander Anand

v. Union of India [(1953) 1 SCC 420: (1953) SCR 655]. Likewise the termination of service by compulsory retirement in terms of a specific rule regulating the conditions of service is not tantamount to the infliction of a punishment and does not attract Article 311(2), as has also been held by this Court in Shyam Lal v. State of Uttar Pradesh [(1955) 1 SCR 26]. In either of the two abovementioned cases the termination of the service did not carry with it the penal consequences of loss of pay, or allowances under Rule 52 of the Fundamental Rules. It is true that the misconduct, negligence, inefficiency or other disqualification may be the motive or the inducing factor which influences the Government to take action under the terms of the contract of employment or the specific service rule, nevertheless, if a right exists, under the contract or the rules, to terminate the service the motive operating on the mind of the Government is, as Chagla, C.J., has said in Shrinivas Ganesh v. Union of India [LR 58 Bom 673 : AIR (1956) Bom 455] wholly irrelevant. In short, **if the termination of service is founded on the right flowing from contract or the service rules then, prima facie, the termination is not a punishment and carries with it no evil consequences and so Article 311 is not attracted. But even if the Government has, by contract or under the rules, the right to terminate the employment without going through the procedure prescribed for inflicting the punishment of dismissal or removal or reduction in rank, the Government may, nevertheless, choose to punish the servant and if the termination of service is sought to be founded on misconduct, negligence, inefficiency or other disqualification, then it is a**

punishment and the requirements of Article 311 must be complied with. As already stated if the servant has got a right to continue in the post, then, **unless the contract of employment or the rules provide to the contrary, his services cannot be terminated otherwise than for misconduct, negligence, inefficiency or other good and sufficient cause. A termination of the service of such a servant on such grounds must be a punishment and, therefore, a dismissal or removal within Article 311, for it operates as a forefeiture of his right and he is visited with the evil consequences of loss of pay and allowances. It puts an indelible stigma on the officer affecting his future career.** A reduction in rank likewise may be by way of punishment or it may be an innocuous thing. If the government servant has a right to a particular rank, then the very reduction from that rank will operate as a penalty, for he will then lose the emoluments and privileges of that rank. If, however, he has no right to the particular rank, his reduction from an officiating higher rank to his substantive lower rank will not ordinarily be a punishment. But the mere fact that the servant has no title to the post or the rank and the Government has, by contract, express or implied, or under the rules, the right to reduce him to a lower post does not mean that an order of reduction of a servant to a lower post or rank cannot in any circumstances be a punishment. **The real test for determining whether the reduction in such cases is or is not by way of punishment is to find out if the order for the reduction also visits the servant with any penal consequences. Thus if the order entails or provides for the forfeiture of his pay or allowances or**

the loss of his seniority in his substantive rank or the stoppage or postponement of his future chances of promotion, then that circumstance may indicate that although in form the Government had purported to exercise its right to terminate the employment or to reduce the servant to a lower rank under the terms of the contract of employment or under the rules, in truth and reality the Government has terminated the employment as and by way of penalty. The use of the expression "terminate" or "discharge" is not conclusive. In spite of the use of such innocuous expressions, **the Court has to apply the two tests mentioned above, namely, (1) whether the servant had a right to the post or the rank, or (2) whether he has been visited with evil consequences of the kind hereinbefore referred to? If the case satisfies either of the two tests then it must be held that the servant has been punished and the termination of his service must be taken as a dismissal or removal from service or the reversion to his substantive rank must be regarded as a reduction in rank and if the requirements of the rules and Article 311, which give protection to government servant have not been complied with, the termination of the service or the reduction in rank must be held to be wrongful and in violation of the constitutional right of the servant."**

(emphasis supplied)

35. We would only be adding to verbosity by multiplying authorities. In view of the above dictum, it is clear that the Respondents did not comply with Clause 4 – either the first part or the second part thereof. The order dated 30.03.2013 does visit the appellant with evil consequences and would create hurdles for her re

further employment.

36. In view of the discussions made herein above, the Impugned Judgment is quashed and set aside. The judgment of the learned Single Judge dated 20.06.2017 stands revived, however with a modification to the extent that the appellant shall be entitled to all consequential benefits including notional continuation in service at par with other similarly situated employees, but with the back wages restricted to 50%. Further, in view of the long passage of time, we deny liberty to the respondents to proceed afresh against the appellant as was granted by the learned Single Judge. However, this will not preclude the respondents from taking action against the appellant in accordance with law in futuro apropos her official duties on the post in question, if the situation so arises. The exercise be completed within three months from the date of receipt of this judgment.

15. Considering the observations made in the above two decisions, the order of termination was held to be stigmatic, in respect of allegations levelled against the concerned employee in each of the petitions, there was no full-fledged inquiry held and yet by assigning reasons which would cast stigma upon the petitioners, the services of the petitioners was terminated. In the instant case also, some irregularities are alleged in MGNREGA Scheme against each of the petitioners and without holding departmental inquiry, on the aforesaid ground, the petitioners' services were terminated. Therefore, I have no hesitation in holding that the termination of services of each of the petitioners are stigmatic in nature and the same is passed

without holding any full-fledged inquiry and, therefore, the impugned orders terminating the services of the petitioners are quashed and set aside and the petitions stand allowed. Rule is made absolute to the aforesaid extent. No order as to costs.

16. The respondents are directed to reinstate the petitioners on their original posts which they were holding prior to their termination upto the term of their appointment, as if the order of termination was never passed. The reinstatement of the petitioners as directed above shall be for the remaining period of their contractual employment upto making of total original period fixed for their employment as per their order of appointment. Further, it will be open for the respondents, if they so deem fit, to initiate a full-fledged inquiry against each of the petitioners by complying with the principles of natural justice and as a result of quashment of the termination orders in each of the petitions, if they are entitled to any monetary benefits for the interregnum period, the same shall be considered notionally for taking into consideration any benefits which may flow on account of service conditions of the petitioners.

17. As far as backwages is concerned, learned AGP Ms. Nirali Sarda as well as learned advocate Mr. Nisarg Jain appearing for the respective respondents have opposed the said prayer by stating that the petitioners have not worked actually in past since their termination. In support of her contention, she relied upon the decision of the Division Bench of this Court in the case of **Bhaveshkumar Rameshkumar Kanara v. State fo Gujarat**

decided on 17.10.2023 in Letters Patent Appeal No.659 of 2023 wherein while denying the monetary benefits for the interregnum to the appellant, the Division Bench has observed in paragraph 5.1 to 5.4 as under :-

"5.1 The decision of this Court in **Kaminiben Thakorbhai Patel Vs. State of Gujarat, which was Letters Patent Appeal No.761 of 2021, decided on 24.12.2021,** arose in the similar and nearly identical set of facts.

5.1.1 While not granting the backwages, the court observed thus in para 8,

“As far as the aspect of grant of back wages to the appellants is concerned, while on behalf of the appellants, the relief of back wages was pressed by submitting that the back wages have to follow automatically when the reinstatement is directed upon holding the termination illegal, certain conspicuous aspects stare at the face of the controversy in this case fir considering the issue of back wages. Not only that long time has elapsed since the appellants are ordered to be reinstated by this order and the principle of no work no pay would apply. What becomes decisive in the matter on this score is the factum that the appellants were appointed for five years initially and during such five years their services came to be terminated by passing the impugned order. They are reinstated as per the above direction for the remainder period providing further that all other conditions in respect of nature of their appointment would operate. In such circumstances, the question of grant of back wages does not arise. The appellants will not be entitled to any back wages.”

> 5.2 The petitioner herein was a fixed term employee, he has been reinstated for the remainder term of five years subject to further orders which may be passed by the authorities for extension, if any, in the term of employment. When the initial tenure of the petitioner was fixed, that very aspect would render grant of backwages not permissible.
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> 5.3 It would be incongruent to grant monetary benefits and the backwages while reinstating a fixed term employee, inasmuch as granting such benefit would amount to giving salary beyond total term of five years for which the appointment is made."
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> 18. Considering the above observations made by the Division Bench of this Court, it is held that none of the petitioners are entitled to any backwages as in view of the fact that the petitioners are directed to be reinstated and State is also directed to ensure that the petitioners are allowed to perform their duties for the remaining period of their contractual appointment."

10. As far as the State's submission about the powers to terminate a contractual employee in view of Government Resolution dated 28.3.2006 is concerned, the coordinate Bench of this Court in the decision in the case of **Hiteshkumar Dahyabhai Rathod v. State of Gujarat delivered on 8.10.2020 in Special Civil Application No.19460 of 2019** has observed in paragraphs 17 and 18 as under :-

"17. The Division Bench of this Court in the case of State of Gujarat vs. Chetan Jayantilal Rajgor (Supra), while confirming the judgment of the learned single Judge, dismissed the appeal. In the case before the Division Bench, the contention was raised on behalf of the State Government that while discontinuing service of an employee concerned, adequate opportunities were extended and hence, the action cannot be said to be in violation of principles of natural justice. It was a specific case of the State Government before the Division Bench that the show cause notice was issued requiring the employee concerned to show cause as to why his service should not be discontinued in terms of the government resolution dated 4.6.2009 and it is only after considering the detailed reply filed by the employees concerned followed by a personal hearing that the authorities took a decision of putting an end to the contractual employment. It was contended before the Division Bench that such action cannot be termed to be de hors principles of natural justice. It was also the case of the State Government that full- fledged departmental enquiry are not to be conducted in a contractual employment inasmuch as, the contractual employment are governed by resolutions issued by the State Government from time to time. The Division Bench, while not accepting the aforesaid contentions raised by the State Government, affirmed the view taken by the learned single Judge, observing in paras 6, 7, 8, 9 and 11 as under :-

“6. In the cognate matter also, almost similar observations are visible and as such, we do not propose to over burden the present order. These observations if to be examined in the background of present fact

situation, the same are found to be just and proper. It appears here that the original petitioners were dealt with by issuance of show cause notice with respect to serious charges levelled against them and the notice was given stating as to why in terms of their appointment, they may not be dismissed from the services. Now, this show cause notice appears to have been replied at length by the original petitioners and subsequently, by giving a brief opportunity, without conducting full-scale departmental inquiry, an order of dismissal came to be passed. This procedure which has been adopted by the department against both the original petitioners and undisputedly, no departmental inquiry having been conducted against them, the learned Single Judge, on the basis of relevant proposition of law laid down by the Apex Court, was justified in his view that in the absence of full-scale departmental inquiry, the services of the writ petitioners cannot be terminated in the manner in which it has been put to an end. We see no infirmity in the order passed by the learned Single Judge, particularly having gone through the relevant record made available to us.

7. This view which has been taken by the learned Single Judge, to which we are also in agreement, stands fortified by few decisions by the Division Bench of this Court which have already been relied upon by the learned Single Judge.

8. The bone of contention of appellants – State authorities is that since the original petitioners are employed on a contract basis and fixed pay, the Department is not under an obligation to conduct a detailed full-scale departmental inquiry. Now, this contention has been the

subject matter of scrutiny on earlier occasion before a Coordinate Bench in Letters Patent Appeal No.189 of 2018 between Vadodara Municipal Corporation v. Manishbhai Nayanbhai Modh, decided on 20.2.2018. The relevant observations contained in the said decision are reflecting in Para.4.1 which are also based upon the decision of the Apex Court and in consonance with the provision of the Gujarat Civil Services (Discipline and Appeal) Rules, 1971. The said observations have also been considered at length by the learned Single Judge which are reflecting in Para. 5.7 of the impugned order.

9. Yet in another decision again by the Division Bench of this Court rendered in Letters Patent Appeal No.841 of 2019 between Rahul Aydanbhai Vak v. State of Gujarat, decided on 15.4.2019, in which the same issue has been considered. The relevant discussion of the Division Bench in the said case is contained in Para.7, 8 and 9, in which in no uncertain terms, almost in similar set of circumstance, the Division Bench has clearly opined that full-scale departmental inquiry will have to be undertaken, if initiation of action on the basis of unsatisfactory work, gross negligence or indiscipline or any act which may tantamount to be stigmatic and as such, consistently this view has been clearly opined by the Division Bench.

11. From the overall material on record and in consideration of aforesaid observations, we see no distinguishable material to take a different view or deviate from the same. Since almost in similar issue, the proposition is to the effect that whenever any charge is levelled and action is found to be stigmatic, a full-scale departmental

> inquiry deserves to be undertaken irrespective of whether the delinquent was a regular employee or contractual employee on a fixed salary. As a result of this, we are of the considered opinion that since undisputedly by a brief procedure, an action is initiated against the respondents herein while dismissing their services, said action itself is found to be not on the touchstone of aforesaid proposition of law. As a result of this, no error is committed by the learned Single Judge. Having perused these material, we are not satisfied with the submissions made by learned counsel for the appellants in both these appeals."
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> 18. From the aforesaid enuncitation, it is clear that whenever any charge is levelled and action is found to be stigmatic, a full-scale departmental enquiry deserves to be undertaken irrespective of whether the delinquent was a regular employee or contractual employee on a fixed salary. The principles enunciated by the coordinate bench as well as by the Division Bench of this Court apply on all fours to the facts of the present case inasmuch as, the allegation against the petitioner is that by accepting the bribe, he has committed an offence under provisions of the Act of 1988 and thereby has not maintained absolute integrity and has acted in defiance of clause (i) of sub-rule (1) of Rule 3 of the Conduct Rules of 1971. The aforesaid propositions of law have not been disputed by the learned Assistant Government Pleader on principle as well as on facts."

11. The aforesaid decision was carried in appeal by the State by way of Letters Patent Appeal No.423 of 2021 and the said appeal was also dismissed

by the Division Bench of this Court vide order dated 9.6.2021 wherein the Division Bench after considering the above paragraphs 17 and 18 of the learned Single Judge and other relevant paragraphs, observed in paragraphs 7.2 and 8 as under :-

> "7.2 Similar view has been taken by this Court also while dismissing the Appeal preceded by the State vide order dated 08.06.2021 passed in Letters Patent Appeal No.99 of 2021 as well.
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> 8. In all aforesaid judgments, the entire case law has elaborately been discussed and it is held that in absence of full scale departmental inquiry, services of the delinquent cannot be terminated if the order of termination is found to be stigmatic and hence we are unable to take a different view as the same is based on numerous judgments referred to in those decisions."

12. In view of the fact that the contention raised by the State Government about observance of principles of natural justice has already been considered by the coordinate Bench and the same has not been accepted by the Division Bench of this Court, I am bound by the view taken by the Division Bench of this Court and, therefore, the aforesaid submission that as the respondents have followed the principles of natural justice before terminating the petitioner or that such would amount to holding a full-fledged departmental inquiry cannot be accepted.

13. In view of above, as the present order of termination is also found to be stigmatic order by this Court, the facts of the present petition is also squarely covered by the decision of this Court in case of Rakeshkumar Bhursingbhai Katara (supra) and accordingly, the impugned order of termination dated 13.04.2022 is required to be quashed and set aside and the same is accordingly, quashed and set aside. Resultantly, the petitioner is directed to be reinstated. However, the reinstatement would be only till remaining period of his appointment on his original post which the petitioner held prior to his termination, as if the order of termination is never passed. Remaining period of his contractual employment upto making of total original period fixed for his employment as per his original order of appointment.

14. Further if the respondents, if they so deem fit, it will be open for them to initiate a full-fledged inquiry against the petitioner by complying with the principles of natural justice and as a result of quashing the order of termination in respect of present petitioner, if he is entitled to any monetary benefits, the same shall be considered notionally by the State Government. However, there shall not be any entitlement of back-wages to the petitioner.

15. With the aforesaid observation and direction, the petition is allowed. Rule is made absolute to the aforesaid extent. No order as to costs.

16. The petitioner shall be reinstated in remaining period and thereafter, it is left to the discretion of the authority whether to continue the petitioner upon completion of contractual period by placing the petitioner in regular pay scale or not to extend his services as the same depends upon the satisfactory service rendered by the petitioner as per the appointment order itself. Direct service is permitted.

(NIRZAR S. DESAI,J)

Pallavi

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: PALLAVIBEN PRABHUDAS PANCHAL(HC01403), PRIVATE SECRETARY, at High Court of Gujarat on 11/02/2026 12:57:16