Reserved On : 23/12/2025
Pronounced On : 05/01/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 11062 of 2017

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE MAULIK J.SHELAT

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Approved for Reporting	Yes	No
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HITESHCHANDRA M BHATT & ORS.
Versus
AHMEDABAD MUNICIPAL CORPORATION

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Appearance:
MR YOGEN N PANDYA(5766) for the Petitioner(s) No. 1,10,11,2,3,4,5,6,7,8,9
MR HS MUNSHAW(495) for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE MAULIK J.SHELAT**

CAV JUDGMENT

1. The present writ petition is filed under Articles 14, 16 and 226 of the Constitution of India, seeking the following reliefs :

> *"(A) Your Lordships may be pleased to admit and allow this petition;*
>
> *(B) Your Lordships may further be pleased to issue a writ of mandamus / certiorari or any other appropriate writ in the nature of mandamus / certiorari quashing and setting aside the impugned communication dated 09.03.2017 passed by the respondent Corporation and be further pleased to direct the respondent Corporation that since the post of Senior Scientific Assistant is a promotional post according to the Recruitment Rules of the respondent Corporation and the petitioners are entitled for the post of Senior Scientific Assistant or higher pay scale of Rs. 2000-3200 as per the Circular No. 6, dated 13.05.2002 of the respondent Corporation from 01.04.1992, Your*

Lordships may further be pleased to direct the respondent Corporation to grant the higher pay scale of Rs. 2000-3200, and not Rs. 1640-2900, to the petitioners, in the interest of justice.

(C) Your Lordships may also be pleased to direct the respondent Corporation to grant the Higher Pay Scale of Rs. 2000-3200 to the petitioners as per the Circular No. PGR/1194-44-5, dated 16.08.1994 and as per Award Part-15 of the learned Arbitrator Shri G. S. Barot and as per the order of the Hon'ble High Court in Special Civil Application No. 9949 of 1993 and as per the policy adopted by the respondent Corporation from 01.04.1992 and further be pleased to direct the respondent Corporation to pay the amount of difference from 01.04.1992 with all consequential benefits to the petitioners, along with the interest at the rate of 12% p.a."

BRIEF FACTS OF THE CASE :

2. All the petitioners were appointed as Junior Scientific Assistants (hereinafter referred to as "**JSA**") with the respondent- Ahmedabad Municipal Corporation (hereinafter referred to as "***the* AMC**") between the years 1979 and 1989, respectively.

2.1 As per the case of the petitioners, the next promotional post available to them would be the post of Senior Scientific Assistant (hereinafter referred to as "**SSA**"), but except petitioner Nos.1, 2, and 5, others had not been promoted to the said post.

2.2 The AMC, *vide* its circular dated 13.05.2002, adopted the policy of the State of Gujarat dated 16.08.1994, whereby it agreed to give benefit of the higher pay scale to its employees. It appears that the AMC has given effect of granting the higher pay scale from 01.04.1992 and its implementation date fixed on 01.04.2002.

2.3 According to the case of the petitioners, in view of the said circular, on the completion of nine years of service in

the post of JSA, they are entitled to receive the pay scale of SSA, i.e., the next immediate promotional post.

2.4 The AMC appears not to have granted the higher pay scale to the petitioners then prevailing for the post of SSA, i.e., Rs. 6500-10500/-, which corresponds to the pay scale of Rs. 2000-3200/-; rather granted the higher pay scale of Rs. 5500-9000/, which corresponds to the pay scale of 1640-2900/. The basis for not granting such higher pay scale was a departmental note of the Central Laboratory wherein the petitioners were working, it opined that there is no promotion available to JSA. So, considering the said departmental note, the AMC although granted a higher pay scale of Rs. 5500-9000/- to the petitioners, instead of Rs. 6500-10500/- (corresponding to Rs. 1640-2900/-, instead of Rs. 2000-3200/-, respectively).

2.5 The petitioners appear to have submitted their detailed representation dated 06.02.2003 to AMC, thereby pointed out that, in the past, the post of SSA and like other senior posts in the Central Laboratory were filled through promotion from the post of JSA and like. The petitioners have placed reliance upon the AMC Manual, Part-I, Regulation and Delegation of Power, Chapter-8, General Conditions of Service, Serial No.17, Procedure for Regulating Promotion. They have also referred to AMC Manual-III, wherein the administrative policy and its Order No.266 relate to the Engineering Department, wherein employees referred in the representation serving in the Central Laboratory considered as officers. It was submitted

that as per hierarchy, the post of JSA is not isolated post as the next promotional avenue from the post of JSA is SSA. There are certain instances also cited in the said representation, wherein the petitioners submitted that promotion from the post of JSA is available to the post of SSA. Accordingly, they claimed to grant them higher pay scale of Rs.6500-10500/-, instead of Rs.5500-9000/-.

2.6 The Finance Department of AMC appears to have taken note of such representation vide its departmental note dated 31.05.2007 and having found substance in it, recommended to grant the benefit of the higher pay scale of Rs.6500-10500/-, instead of Rs.5500-9000/- to the petitioners. The said departmental note of AMC also referred that in the year 2006, more particularly on 22.03.2006, two JSAs were promoted to the post of SSA (petitioner No.1 & 2 herein) and granted the pay scale of Rs.6500-10500/- as applicable to the post of SSA. So, to remove the anomaly, it recommended to grant the same higher pay scale to the petitioners.

2.7 As no decision was taken by the competent authority of AMC in regard to the claim of the petitioners, at the relevant point of time, the petitioners had approached this Court by way of Special Civil Application No.5801 of 2010. This Court, *vide* its order dated 07.05.2010, directed AMC to consider the case of the petitioners by taking into account the aforesaid departmental notes dated 31.05.2007 and 21.01.2008, respectively.

2.8 After considering the aforesaid order, *vide* its Finance Department note dated 26.08.2010, it was noted that as per the decision of the Standing Committee of AMC dated 18.08.2010, Recruitment Rules are to be framed, whereby existing Recruitment Rules for the posts of JSA and SSA would be changed and the Municipal Commissioner is given power to frame such rules of recruitment and initiate requisite procedure for the same. Accordingly, all posts of JSA shall be filled up by way of advertisement (direct recruitment); whereas, out of two posts of SSA, one post shall be filled in by way of promotion and the other shall be filled in by way of direct recruitment by the advertisement. So, on implementation of the aforesaid procedure, it was recommended by the Finance Department of AMC to give the effect of the higher pay scale of Rs.6500-10500/- to the petitioners with retrospective effect.

2.9 It is not in dispute that petitioner Nos.1 and 2 had been promoted to the post of SSA on 22.03.2006, as referred to in the aforesaid Finance Department note dated 31.05.2007. Whereas, petitioner No.5 was also promoted in the year 2010. It is not in dispute that Recruitment Rules came into effect on 17.08.2011. The Chief Accountant (In-charge) of AMC, *vide* his letter dated 01.09.2010, rejected the claim of the petitioners, which gave rise to filing of another writ petition by the petitioners, being Special Civil Application No.14459 of 2010. This Court, *vide* its oral judgment dated 29.07.2016, again directed the Municipal Commissioner of AMC to consider all relevant material on the record, including the pleadings of the parties and decide

a fresh the claim of the petitioners at the earliest.

2.10 Thereafter also, the petitioners, vide their representation dated 24.01.2017, requested AMC to grant the benefit of the higher pay scale as available to the post of SSA on completion of their nine years of service to the post of JSA. The competent authority of AMC, *vide* its impugned decision dated 09.03.2017, again rejected the claim of the petitioners, whereby it did not grant the benefit of the higher pay scale to the petitioners as demanded. Again, the basis for denying this benefit is the fact that no promotional posts available to JSA at the relevant point of time. On the framing of the Recruitment Rules on 17.08.2011, whereby, out of two posts of SSA, one post is to be filled by way of promotion. Consequently, the benefit of the higher pay scale may be granted from the said date, but not prior to it.

2.11 Being dissatisfied with the decision of AMC, the petitioners have approached this Court by way of this petition. Most of the petitioners have already retired from their services and are receiving pension.

SUBMISSIONS OF THE PETITIONERS :

3. Mr. Yogen Pandya, learned advocate for the petitioners, submitted as follows:

3.1 All the petitioners who have served for more than nine years in the post of JSA are entitled to the first higher pay scale applicable to the post of SSA, i.e., the next immediate

promotional post available to them. It is submitted that, as per the undisputed facts, petitioner Nos.1, 2, and 5 were promoted to the post of SSA in the year 2006 and 2010, respectively and at that point of time, the Recruitment Rules, 2011 were not in existence.

3.2 It is submitted that, as per the detailed representation dated 06.02.2003 of the petitioners, in the past, the AMC promoted persons served in the post of JSA to the post of SSA. It is also submitted that as per the Manual of AMC referred in the said representation of the petitioners, a promotional exercise from the post of JSA to SSA was undertaken by the AMC. It is further submitted that if there were no rules available to give promotion from the post of JSA to SSA, how the petitioner Nos.1, 2 and 5 could have been promoted, as aforesaid. It is further submitted that the Finance Department note dated 26.08.2010 only referred to the change of existing rules in the year 2010, whereby new Recruitment Rules came into force on 17.08.2011. Accordingly, now, out of two posts of SSA, one post shall be filled up by way of promotion from the post of JSA.

3.3 It is further submitted that in the absence of any rules, petitioner Nos.1, 2, and 5 could not have been promoted in the year 2006 and 2010 respectively, and so also in the past, as per the instances cited in the aforesaid representation dated 06.02.2003, the AMC could not have given promotion from JSA to the post of SSA. It is further submitted that the Finance Department note dated 31.05.2007 is very much clear, suggesting to grant the

higher pay scale of Rs.6500-10500/-, instead of Rs.5500-9000/-, whereby the anomaly prevailing between employees can be removed.

3.4 It is further submitted that despite directions issued by this Court to consider the pleadings and relevant material on record, the Municipal Commissioner of AMC failed to take note of the said material/pleadings of the petitioners and acted in an arbitrary manner. It is submitted that if the aforesaid material and representation of the petitioners were duly considered by the Municipal Commissioner, all petitioners would have been granted their legitimate benefit of the first higher pay scale on completion of their nine years of service to the post of JSA.

3.5 It is lastly submitted that the judgment dated 12.10.2001 of this Court passed in Special Civil Application No. 9949 of 1993 is not considered in its correct perspective and thereby the respondent- AMC has violated the fundamental rights of the petitioners by not granting the benefit of the actual higher pay scale from the date on which they are entitled to receive it, as per its circular.

3.6 Making the above submissions, Mr. Pandya, learned advocate for the petitioners, prays that this Court may allow the present petition.

SUBMISSIONS OF THE RESPONDENTS :

4. *Per contra,* Mr. H. S. Munshaw, learned advocate for the respondent, has submitted as follows:

4.1 The AMC is a statutory authority who adopted the Government Resolution dated 16.08.1994, thereby agreed to grant the benefit of the higher pay scale to its employees, albeit w.e.f. 01.04.1992 and to be implemented from 01.04.2002. The claim of the petitioners to give them the first higher pay scale as available to the post of SSA is unjustified and not maintainable, inasmuch as, at the relevant point of time, no promotion was available to petitioners working on the post of JSA to SSA. So, as per Schedule-I of the circular dated 13.05.2002 issued by the AMC, considering the post of JSA as non-promotional post, accordingly, petitioners were granted the benefit of the higher pay scale.

4.2 It is submitted that in the absence of any promotion rules, the petitioners would not be *ipso facto* entitled to receive the benefit of the higher pay scale to the post of SSA. It is further submitted that for the first time, Recruitment Rules were framed by the AMC in the year 2010-11 and came into force w.e.f. 17.08.2011. Therefore, the benefit of the higher pay scale to the petitioners as claimed with retrospective effect cannot be granted.

4.3 It is further submitted that after coming into force of the Recruitment Rules in the year 2011, out of two posts of SSA, one post shall be filled in by way of promotion from the post of JSA and then after, the petitioners were entitled to receive the benefit of the higher pay scale of such post and not prior to it. It is further submitted that due to administrative exigencies, petitioner Nos.1, 2 and 5, as the

case may be, promoted to the post of SSA in the year 2006 and 2010, respectively, which would not *ipso facto* entitle the petitioners to claim the benefit of the higher pay scale of the post of SSA upon completion of their nine years of service to the post of JSA. It is further submitted that on reviewing its decision as directed by this Court *vide* its order dated 17.11.2025, the Municipal Commissioner - competent authority of AMC, again came to the conclusion that the petitioners cannot be granted the benefit of the higher pay scale as claimed with retrospective effect.

4.4 So, the respondent - AMC well within its right to grant the benefit of the higher pay scale to all petitioners as per its policy and circular dated 13.05.2002 and thereby has not committed any illegality as claimed by the petitioners. As such, there is no merit in the claim of the petitioners.

4.5 Making the above submissions, Mr. Munshaw, learned advocate for the respondent, requests this Court to dismiss the present petition.

POINT FOR DETERMINATION :

5. Having heard the learned advocates for the respective parties and after going through their respective pleadings and documents, the following issues are germane for my consideration:

(I) Whether, any promotion from the post of JSA to the post of SSA was in existence prior to the

Recruitment Rules of the AMC came into force w.e.f. 17.08.2011?

(II) Whether, under the facts and circumstances of the case, the petitioners are entitled to the first higher pay scale as claimed, either from 01.04.1992 or upon completion of their nine years of service in the post of JSA, as the case may be?

ANALYSIS :

POINT NO.(I):

6. The facts which have been observed hereinabove are not in dispute. All the petitioners were appointed to the post of JSA from the year 1979 to 1989, respectively; petitioner Nos.1, 2 and 5 were subsequently promoted to the post of SSA in the years 2006 and 2010, respectively. The AMC decided to implement the Government Resolution dated 16.08.1994 *vide* its circular dated 13.05.2002, whereby it accepted to grant the benefit of the higher pay scale to its employees. Such benefit of the higher pay scale is considered w.e.f. 01.04.1992, but its implementation date is fixed as 01.04.2002. As per Clause 3.1 of the said circular dated 13.05.2002, the first higher pay scale means the pay scale of the next immediate promotional post shown in Schedule-I.

6.1 As per the petitioners' case, the next promotion available to them was of SSA and accordingly, they claimed the higher pay scale of Rs.6500-10500/ (corresponds to

Rs.2000-3200/-), instead of Rs.5500-9000/ (corresponds to Rs.1640-2900/-) considered by the AMC. Whereas, as per respondent - AMC, at the relevant point of time, no promotion was available to the petitioners from the post of JSA to SSA. The AMC appears to have considered Clause 6.4 of the said circular dated 13.05.2002 read with the Government Resolution dated 16.08.1994, thereby, treated the petitioners served on non-promotional post, i.e., an isolated post. Consequently, they have been granted the higher pay scale which was shown in Schedule-I against their existing pay scale. Thus, the AMC granted the higher pay scale of Rs.5500-9000/ (Rs.1640-2900/-), instead of Rs. 6500-10500/ (Rs.2000-3200/-).

7. It has remained undisputed on record that in the years 2006 and 2010, respectively, petitioner Nos.1, 2 and 5 were promoted as SSA and granted the pay scale of SSA. The AMC's Finance Department note dated 31.05.2007 took said fact into account and suggested to grant similar benefit to all petitioners as vacant posts of SSA were filled up through promotion from the post of JSA. The said anomaly in granting different higher pay scale arose due to the remarks of the departmental head of the Central Laboratory, who opined that there is no promotion available to JSA. On getting the said opinion, the Finance Department, at the relevant point of time, not granted the complete benefit of the higher pay scale to petitioners having considered their post (JSA) as a non-promotional channel, i.e., an isolated post. Thus, instead of granting the actual higher pay scale then prevailing for the post of SSA, i.e. Rs. 6500-10500/-

(Rs.2000-3200/-), the AMC considered and granted higher pay scale of Rs. 5500-9000/- (Rs.1640-2900/-), as per Schedule-I of the said circular dated 13.05.2002.

8. As can be seen from the pleadings of the parties, the first representation dated 06.02.2003 of the petitioners and also the Finance Department note dated 31.05.2007 of the AMC, there was a promotional avenue available from the post of JSA to the post of SSA. Had there been no such policy or rules of the AMC in place prior to 17.08.2011 (Rules brought by the AMC), neither petitioner Nos.1, 2 and 5 nor other employees (reference - the petitioners' representation dated 06.02.2003) could have been promoted to the post of SSA from JSA.

9. The petitioners have referred to the AMC Manual, Part-I, Regulation and Delegation of Power, Chapter-8, General Conditions of Service, Serial No.17, Procedure for Regulating Promotion, in their representation dated 06.02.2003. They have also referred to AMC Manual-3, which relates to administrative policy and its Order No.226 relates to employees serving in the Central Laboratory in the Engineering Department shown as officers. The hierarchy shows that the next higher post from the post of JSA would be SSA. This aspect was completely lost sight of by the Municipal Commissioner of the AMC; rather overlooked, who was directed by this Court to consider the case of the petitioners after taking into consideration all relevant materials on record, including the pleadings of the parties.

10. In light of the aforesaid, when this Court confronted Mr. Munshaw, learned advocate for the respondent and in fact, directed the Municipal Commissioner of the AMC to review its decision, none of them were able to give any clear answer to the query of the Court. One Mr. Amish Shah, Chief Accountant of the respondent -AMC, was present before this Court on 19.12.2025 and had shown the copy of GDEST/H/4261 dated 22.03.2006 issued by the Central Office of the AMC. The said resolution of the AMC clearly indicates that as per the decision dated 16.03.2006 of the Departmental Promotion Committee (DPC), petitioner Nos.1 and 2 promoted to the post of SSA from JSA. The aforesaid resolution dated 22.03.2006 of the respondent - AMC is hereby taken on record.

11. At this stage, it would be apt to reproduce the aforesaid note of Finance department of the AMC dated 31.05.2007 and 26.08.2010, respectively, which in fact reproduced by the co-ordinate bench of this Court (Hon'ble Mr. Justice J.B.Pardiwala, his lordship then was) in its oral judgement dated 29.07.2016 passed in R/SCA/14459/2010 would read thus:

Note dated: 31.05.2007

> " *To,*
> *The Municipal Commissioner,*
>
> *An application of Junior Scientific Assistant seeking Higher Pay Scale to the grade of promotional post of the Senior Scientific Assistant of the Central Laboratory is enclosed herewith.*
>
> *Ahmedabad Municipal Corporation has adopted policy to pay Higher pay Scale to the employee. And accordingly, pay fixation of the employees entitled for the Higher Pay Scale have been done.*

Promotion Channel, Non-Promotion Channel and in addition to it opinion of the Head of the Department have been taken under consideration at the time of granting Higher Pay Scale to the Municipal employees. At the time of fixation of Higher Pay Scale of the employees of the Central Laboratory, Officer of the Central Laboratory had opined in written on 08.01.2003 that "Junior Scientific Officer have not being promoted." So, Higher Pay Scale of grade of Rs.5500-9000 as per schedule has been given to the Junior Scientific Assistant performing duties in the grade of Rs.4500-7000/-.

Junior Scientific Assistants performing duties in the grade of Rs.4500-7000/- have been appointed on the promotional post of the Senior Scientific Assistant having grade of Rs.6500-10500 as per the decision of the Departmental Promotion committee, dated 16.03.2006. Perusing Resolution bearing number-GDEST/H/4261, dated 22.03.2006 issued by the Central Office enclosed with an application.

Considering all above-mentioned aspects carefully, fixation of pay scale was done (Non-Promotion Channel) as per schedule on the basis of report submitted by the Departmental Officer when fixation of Higher pay Scale was done by the Finance Department. Considering Perusing Resolution bearing number-GDEST/H/4261, dated 22.03.2006 vacant posts of the Central Laboratory have been filled up by the promotion. So, the Junior Scientific Assistants performing duties in the grade of Rs.4500-7000/- has to be given grade of Rs.6500-10500/- of the Senior Scientific Assistant. So, as to avoid discrepancy.

***Submission of the applicants has been found true**. And it is requested to grant approval for fixation of Higher Pay Scale on the basis of seniority after examining documents and submission received from the Departmental Officer at the beginning and the submissions of the applicants.*

Sd/-illegible Deputy Municipal Commissioner
Chief Accountant(I/C)

(Finance)"

Note Dated : 26.08.2010

"To,
The Municipal Commissioner,

Pay Scale of Rs.5500/9000 in Higher Pay Scale has been given to the Junior Scientific Assistant performing duties with the Central Laboratory Department against grade of Rs.4500-7000/-

Junior Scientific Assistant performing duties with the Central Laboratory Department had preferred Special Civil Application

number 5801/2010 seeking Higher Pay Scale in the grade of (Rs.6500-10500) of promotional post of Senior Scientific Assistant. Pursuant to it detailed report has been submitted before you and following approval has been given by you.

1. *To initiate procedure by the Central Office to frame Recruitment Rules for the post of Junior Scientific Assistant.*

2. *To maintain status quo until rules be framed.*

Sanctioned is being granted subject to grant approval to the Municipal Commissioner by the Municipal Corporation to initiate requisite procedure and to frame rules of recruitment as informed by the Municipal Commissioner ***by altering existing rules of recruitment of the post of*** *Junior Scientific Assistant and* ***Senior Scientific Assistant*** *pursuant to Resolution number-899, dated 18.08.2010 for framing of recruitment rules. Accordingly, post of the Junior Scientific shall be filled up by way of 100% advertisement while out of 02 posts of Senior Scientific Assistant, one post shall be filled up by way of promotion entirely and other post shall be filled up by direct recruitment by advertisement.*

Procedure shall have to be initiated within -3 months according to the order passed by the Hon'ble High Court of Gujarat dated 11.05.2010 and recommendation of the Deputy Municipal Commissioner (Finance) dated 31.05.2007 and 21.01.2008

Recommendations of the Deputy Municipal Commissioner are as under.

> *"Firstly R.R. To be fixed for by the Central Office. Junior Assistant may get Higher Pay Scale as per (A) (of Scheduled Caste – Rs.5500/9000-00 grade against Rs.4500/7000 grade) and (B) grade has to be given in case of substantiating post by promotion (grade of Rs.6500/10500 against the grade of Rs.4500/7000) So, decision can be taken accordingly to (A)/(B) after deciding it."*

Thus, at prese nt the Standing Committee has framed the Recruitment Rules and so, Higher Pay Scale has to be given as per the grade of Rs.6500/10500 against the grade of Rs.4500/7000 . According to the recommendation – (B) of the Deputy Municipal Commissioner (Finance) dated 21.01.2008.

Please take note of it and,

It is requested to grant approval of Higher Pay Scale as per the grade of Rs.6500/10500 against the grade of Rs.4500/7000 Rs. To the applicant included in the Special Civil Application No.5801/2010 as the Municipal Corporation has accepted benefit of 9/18/27 w.e.f. 01.04.1992 with retrospective effect."

(emphasis supplied)

12. Having considered the aforesaid facts and documents which are made available on the record of this case including the said department notes, these would clearly indicate that even prior to said Rules coming into force w.e.f. 17.08.2011, a promotional avenue was available from the post of JSA to that of SSA; otherwise, petitioner Nos.1, 2 and 5 could not have been promoted to the post of SSA from JSA.

13. A bare reading of the Finance Department note dated 26.08.2010 also indicates that there were existing Recruitment Rules for the posts of JSA and SSA, but the rules were proposed to change in the year 2010, pursuant to which the Recruitment Rules as framed by AMC came into effect on 17.08.2011. By virtue of the said Recruitment Rules coming into force w.e.f. 17.08.2011, thereby decided to fill up two posts of SSA through different mode of channels, i.e., promotion and direct recruitment.

14. In view of the aforesaid, the stance taken by AMC that for the first time Recruitment Rules came into force w.e.f. 17.08.2011, thereby giving a chance to JSAs for promotion to the post of SSA, is thoroughly misconceived and contrary to its own record.

15. Thus, in view of the aforesaid reasons, it can be gainsaid that promotion from the post of JSA to SSA was available only after 17.08.2011; rather the documents of the AMC itself shows that the promotion from the post of JSA to SSA was in existence prior to the said rules came into force. Point No. (I) is answered accordingly.

POINT NO. (II):

16. It is not in dispute that at the relevant point of time, the prevailing pay scale for the post of SSA was Rs.2000-3200/- (corresponds to Rs.6500-10500/-). Whereas, petitioners were granted the pay scale of Rs.1640-2900 (corresponds to Rs.5500-9000/-). The definition of the first higher pay scale as per Clause 3.1 of the circular dated 13.05.2002 of the AMC means the pay scale of the next promotional post stated in Schedule-I. As aforesaid, the next promotional post from the post of JSA is SSA; the pay scale available to the post of SSA, i.e. the promotional post, requires to be granted as the first higher pay scale to petitioners working in the post of JSA. Instead, the respondent - AMC granted/considered a different higher pay scale as if the post of JSA was an isolated post.

17. In view of the aforesaid facts and circumstances, the basis of granting the different higher pay scale to the petitioners then prevailing for the post of SSA is contrary to the aforesaid schemes/policies/circulars of the AMC/State. It can be held that the respondent - AMC has not granted the full benefit of its aforesaid circular to the petitioners, as not granted the appropriate higher pay scale to the petitioners.

18. Having so observed and held hereinabove that there was promotional avenue available from the post of JSA to that of SSA even prior to the Recruitment Rules coming into force on 17.08.2011, then, as per Clause 3.1 of the aforesaid circular dated 13.05.2002 of the AMC, all the

petitioners are entitled to receive the first higher pay scale as prevailing to the next immediate promotional post, i.e., SSA.

19. In my view, since all the petitioners completed nine years of service in the post of JSA (either by 01.04.1992 or thereafter), they are entitled to the higher pay scale prescribed for the post of SSA. The AMC's denial of this benefit constitutes a violation of Articles 14 and 16 of the Constitution of India. Point No. (II) is answered accordingly.

20. In view of the aforesaid, neither stance of the respondent nor any of its arguments so canvassed through its learned advocate have a leg to stand, and they are hereby rejected. The upshot of the forgoing observations and reasoning leads to the conclusion that the present petition deserves to be allowed.

CONCLUSION:

21. In view of the forgoing reasons, the conclusions are as follows:

21.1 The promotion was available from the post of JSA to that of SSA even prior to the Recruitment Rules so framed by the AMC on 17.08.2011; otherwise, petitioner Nos.1, 2 and 5, respectively, could not have been promoted to the post of SSA from JSA.

21.2 Since all the petitioners completed nine years of service in the post of JSA (either by 01.04.1992 or thereafter), as per the aforesaid AMC's circular dated

13.05.2002, they are entitled to the higher pay scale prescribed for the post of SSA, i.e., Rs.2000-3200/- (Rs. 6500-10500/-), instead of Rs.1640-2900/- (Rs.5500-9000/-) either from 01.04.1992 or completion of their nine years' service, as the case may be.

21.3 Consequently, the impugned communication dated 09.03.2017 issued by the respondent - AMC is hereby quashed and set aside.

21.4 The respondent - AMC is hereby directed to calculate and pay the aforesaid difference of the higher pay scale to the petitioners on or before 31.03.2026, failing which the petitioners are entitled to receive the said differential amount of the higher pay scale with 6% p.a. interest from 01.04.2026 till its realization.

22. In view of the foregoing conclusion, the present writ petition is allowed to the aforesaid extent. Accordingly, Rule is made absolute. There shall be no order as to costs.

(MAULIK J. SHELAT, J)

GAURAV J THAKER

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: GAURAVKUMAR JANARDANBHAI THAKER(HC00951), Principal Pvt. Secretary, at High Court of Gujarat on 05/01/2026 13:13:17