NEUTRAL CITATION

2026:GUJHC:70565

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 6180 of 2026
With
CIVIL APPLICATION (FOR VACATING INTERIM RELIEF) NO. 2 of 2026
In R/SPECIAL CIVIL APPLICATION NO. 6180 of 2026
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 3 of 2026
In R/SPECIAL CIVIL APPLICATION NO. 6180 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE DEVAN M. DESAI

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Approved for Reporting	Yes	No
		✓

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HARIT VIMALBHAI BUCH
Versus
THE DISTRICT AND SESSIONS COURT, JUNAGADH & ORS.

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Appearance:
MR HRIDAY BUCH ADVOCATE with
MR MEET A SHAH(9933) for the Petitioner(s) No. 1
LAW OFFICER BRANCH(420) for the Respondent(s) No. 1,3
MR ANKIT SHAH(6371) for the Respondent(s) No. 2
MR CHINTAN N DESAI(9940) for the Respondent(s) No. 1,3

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CORAM:**HONOURABLE MR. JUSTICE DEVAN M. DESAI**
Date : 03/11/2026
JUDGMENT

1. The present petition is filed under Article 226 of Constitution of India, 1950, by petitioner praying for following reliefs:-

> *"A. This Hon'ble Court may be pleased to admit and allow the petition;*
>
> *B. This Hon'ble Court may be pleased to declare that the impugned inaction of not deciding/ considering the case of the petitioner for permanent absorption in the Learned Debt Recovery Tribunal - II, Ahmedabad on the post of Upper Division Clerk is unjust, improper, illegal, arbitrary,*

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and capricious and further be pleased to issue a writ of mandamus and/or any other appropriate writ, order or directions to the respondent no.1 to decide the proposal dated 18.02.2026 (Annexure-P) of the respondent no.2 for permanent absorption of the petitioner in the Learned Debt Recovery Tribunal - II, Ahmedabad on the post of Upper Division Clerk;

BB. This Hon'ble Court may be pleased to quash and set-aside the communication dated 28.04.2026 (Annexure - U) of the respondent no.1 and direct the respondent no.1 to consider the case of the petitioner for permanent absorption in the Learned Debt Recovery Tribunal - II, Ahmedabad on the post of Upper Division Clerk;

C. Pending admission, hearing and final disposal of this petition, this Hon'ble Court may be pleased to direct the respondents to continue the petitioner on deputation at respondent no.2 or alternatively, this Hon'ble Court may be pleased to direct the respondents to decide/consider the proposal dated 18.02.2026 (Annexure - P) of the respondent no.2 for permanent absorption of the petitioner in the Learned Debt Recovery Tribunal - II, Ahmedabad on the post of Upper Division Clerk as expeditiously as possible but before 30.04.2026;

CC. Pending admission, hearing and final disposal of this petition, this Hon'ble Court may be pleased to stay the implementation, operation and execution of the communication dated 28.04.2026 (Annexure - U) and further be pleased to direct the respondents to continue the petitioner on deputation at respondent no.2;

D. Any other and further relief or reliefs

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> *which this Hon'ble Court deems fit in the interest of justice and equity in the favour of the petitioners;"*

2. *Rule*. Learned advocate Mr. Chintan Desai waives service of notice of rule on behalf of respondent Nos. 1 to 3 and learned advocate Mr. Ankit Shah waives service of notice of rule on behalf of respondent No.2.

3. Heard learned advocate Mr. Hriday Buch with learned advocate Mr. Meet A. Shah for petitioner, learned advocate Mr. Ankit Shah for respondent No.2, learned advocate Mr. Chintan Desai for respondent Nos.1,3.

4. Brief facts of the present case are as under:-

4.1. Pursuant to a vacancy circular dated 19.04.2022 issued by the Government of India, Ministry of Finance, Department of Financial Services, Debt Recovery Appellate Tribunal, Mumbai, applications were invited for filling up various vacancies, including the post of Upper Division Clerk at the Debt Recovery Tribunals at Mumbai, Ahmedabad, Pune, Aurangabad, and Nagpur on a deputation basis for a period of

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three years. The petitioner applied for the post of Upper Division Clerk on a deputation basis and was selected for the said post on 04.08.2022. Upon completion of the three-year deputation period, the petitioner's request for extension of the deputation period was rejected. However, the learned Registrar General of the High Court, vide communication dated 29.08.2025, extended the petitioner's deputation period until 30.04.2026. On 07.02.2026, the petitioner requested Respondent No. 2 for permanent absorption in its establishment.

4.2. Thereafter, the proposal was forwarded by Respondent No. 2 to Respondent No. 1, requesting the issuance of a No Objection Certificate (NOC) for the petitioner's permanent absorption in the post of Upper Division Clerk in the establishment of Respondent No. 2. The learned Registrar General of the High Court directed the petitioner to comply with the directions issued vide communication dated 29.08.2025. Being aggrieved and dissatisfied with this,

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petitioner approached this Court by way of present petition.

5. Learned advocate for the petitioner submitted that the petitioner was appointed to the post of Assistant (Junior Clerk) on 20.08.2010 at the District Court, Junagadh. Pursuant to the vacancy circular dated 19.04.2022 issued by the Government of India, Ministry of Finance, Department of Financial Services, Debt Recovery Appellate Tribunal, Mumbai, applications were invited for filling up various vacancies, including the post of Upper Division Clerk at the Debt Recovery Tribunals at Mumbai, Ahmedabad, Pune, Aurangabad, and Nagpur on a deputation basis for a period of three years. The petitioner applied for the said post and was selected for appointment as an Upper Division Clerk on a deputation basis. The petitioner was granted the benefit of a higher pay scale by Respondent No. 1. Subsequently, the petitioner was promoted to the cadre of Senior Clerk, Grade III, by Respondent No. 1. However, the petitioner was reverted on administrative grounds vide office order dated 17.08.2024.

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6. Thereafter, on 29.04.2025, as the petitioner was completing three years of deputation, he requested Respondent No.2 to permit him to continue on deputation. The application was forwarded to Respondent No.1 for consideration. However, the request was rejected by Respondent No. 1 on 17.06.2025. The petitioner again reiterated his request on 30.06.2025, which was rejected by Respondent No. 1 on 28.07.2025. Thereafter, the petitioner's request was considered by the learned Registrar General of the High Court of Gujarat, who, vide communication dated 29.08.2025, granted an extension of the deputation period until 30.04.2026. Thereafter, on 07.02.2026, the petitioner requested Respondent No.2 for permanent absorption in its establishment. Accordingly, on 18.02.2026, Respondent No. 2 forwarded the petitioner's application to Respondent No.1, requesting the issuance of an NOC for the petitioner's permanent absorption in the post of Upper Division Clerk in the establishment of Respondent No. 2.

7. Learned advocate for the petitioner further submitted that

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no departmental proceedings were pending against the petitioner and that no financial dues were outstanding against him. It was also submitted that there was no prohibition under the rules governing the subordinate judiciary of the High Court that would prevent absorption of the petitioner by the borrowing department. It is further submitted that sufficient staff was available in the establishment of the District Court at Junagadh and that there was no vacancy for the post of Senior Clerk at Junagadh. Upon the issuance of an NOC by Respondent No.1, the petitioner's request for permanent absorption would be considered by the learned Debt Recovery Appellate Tribunal (DRAT), Mumbai, and the proposal would thereafter be forwarded to the Ministry of Finance, New Delhi. It was contended that, by refusing to issue an NOC, Respondent No. 1 had deprived the petitioner of the opportunity to seek permanent absorption in the establishment of Respondent No. 2. Except above, no other submissions were made by learned advocate for petitioner.

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8. *Per contra*, Learned advocate for Respondent No.1 submitted that petitioner had been serving as an Assistant at the District Court, Junagadh, since 20.08.2010. Pursuant to the vacancy circular dated 19.04.2022 issued by the Government of India, Ministry of Finance, Department of Financial Services, Debt Recovery Appellate Tribunal, Mumbai, applications were invited for filling up various vacancies, including the post of Upper Division Clerk at the Debt Recovery Tribunals at Mumbai, Ahmedabad, Pune, Aurangabad, and Nagpur on a deputation basis. The petitioner applied for the said post and was selected. Accordingly, he was relieved from his duties with effect from 26.08.2022.

9. It is further submitted that petitioner had been appointed on a deputation basis and that his request for extension of the deputation period, made upon completion of three years, had been rejected. However, the learned Registrar General of this Hon'ble Court, vide communication dated 29.08.2025, informed the petitioner that his deputation period had been extended

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until 30.04.2026, and that no further extension would be granted. Thereafter, the petitioner sought permanent absorption in the establishment of Respondent No.2, for which an NOC from Respondent No.1 was required. Respondent No.2 accordingly requested Respondent No. 1 to issue an NOC for the petitioner's permanent absorption in the post of Upper Division Clerk. However, the request for issuance of an NOC could not be accepted for the reason that the policy decision dated 19.05.2014 governing the absorption of staff in the Debt Recovery Tribunals (DRTs) and Debt Recovery Appellate Tribunals (DRATs) stipulates that, in cases involving the absorption of Upper Division Clerks and Court Masters, the Departmental Promotion Committee (DPC) must, in addition to the NOC issued by the parent department, consider the likely eligibility of the feeder cadre. Such consideration must specifically address whether the absorption of a candidate as an Upper Division Clerk would adversely affect the promotion prospects of employees in the feeder cadre.

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10. Therefore, it is submitted that unless the DPC considered the relevant eligibility criteria, Respondent No. 2 could not consider the petitioner's request for permanent absorption. Reliance has also been placed on the Recruitment Rules dated 08.06.2018. It is submitted that the said rules provide for appointment by promotion and, failing that, by deputation. There is no provision under the said rules for permanent absorption of an employee in the establishment of Respondent No.2. It was, therefore, contended that, upon completion of the deputation period, the petitioner could not claim any right to an extension of deputation or permanent absorption. Except above, no other submissions were made by learned advocate for respondent No.1.

11. Learned advocate for Respondent No. 2 supported the case of the petitioner. Reliance was placed on the vacancy circular issued by the Government of India, Ministry of Finance, Department of Financial Services. It was contended

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that, for appointment to the post of Upper Division Clerk, the vacancy circular prescribed eligibility for candidates serving as Lower Division Clerks with eight years of service in the relevant grade. It was further submitted that, in the absence of any employee fulfilling the prescribed eligibility criteria, the petitioner was required to fill the post of Upper Division Clerk in the establishment of Respondent No. 2. Except above, no other submissions were made by learned advocate for respondent No.2.

12. Having considered the submissions canvassed by the learned advocates for the respective parties and the principles of service law, it is well settled that an employee does not have an enforceable right to obtain a 'No Objection Certificate' for permanent absorption as a matter of course. The settled position of law is that an employee appointed on a deputation basis does not possess any fundamental or indefeasible right to be permanently absorbed in the borrowing department. Permanent absorption is not a unilateral process; rather, it

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entails a fresh service arrangement requiring the consent of all three parties, namely, the employee, the borrowing department, and the lending department.

13. In the present case, the High Court expressly extended the petitioner's deputation period until 30.04.2026, making it clear that no further extension would be granted. The deputation period was, therefore, subject to a definite expiry date. Upon expiry of the said period, the petitioner's right to continue in the borrowing department would cease, and he would ordinarily be required to return to his parent department. The petitioner may challenge the denial of an NOC if he establishes that the decision was arbitrary, unreasonable, discriminatory, or motivated by personal bias or malice. The petitioner must also demonstrate that the refusal to issue an NOC violates Article 14 of the Constitution of India or contravenes any applicable statutory provision. In the absence of any material establishing mala fides, arbitrariness, discrimination, or violation of a statutory provision, the

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decision of the parent department to refuse an NOC cannot be said to be unlawful.

14. The borrowing department's concern regarding a shortage of staff does not, by itself, confer any legal right upon the petitioner to seek permanent absorption in the establishment of the Debt Recovery Tribunal, Ahmedabad. The decision as to whether an NOC should be issued rests within the domain of the parent department. Unless such a decision is shown to be vitiated by mala fides, arbitrariness, or illegality, this Court would not ordinarily interfere with the discretion exercised by the parent department.

15. In view of the aforesaid facts and circumstances, the petitioner has failed to establish any legal right to seek the issuance of an NOC for permanent absorption in the establishment of Respondent No.2. No grounds warranting interference by this Court have been made out. Resultantly, the petition fails and is hereby dismissed. Rule is discharged

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accordingly. No order as to costs. Interim relief, if any, stands vacated forthwith.

16. In view of the disposal of the main matter, connected Civil Applications do not survive and are disposed of accordingly.

FURTHER ORDER

After the pronouncement of the order, learned advocate Mr. Hriday Buch for petitioner has prayed for stay of the order for four weeks.

On the other hand, learned advocate for the respondent has objected in granting stay.

In view of above facts and circumstances of the matter, the order is stayed for a period of four weeks from the date of receipt of copy of this order.

(D. M. DESAI,J)

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