

**Somalal Vs. State and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/760235](http://sooperkanoon.com/760235)

**Court :** Rajasthan

**Decided On :** Jan-19-1993

**Reported in :** 1993WLN(UC)31

**Judge :** A.K. Mathur, J.

**Appeal No. :** S.B Civil Writ Petition No. 3749 of 1992

**Appellant :** Somalal

**Respondent :** State and ors.

**Judgement :**

**A.K. Mathur, J.**

1. The petitioner by this writ petition has prayed that the impugned order dt. 27.5.91(Anx. 5) de-confirming the petitioner may be quashed and the petitioner may be sanctioned Medical leave from 23.9.1985 to 31.1.1986 and he should be fixed in the pay-scale rules and he should be given all due increments.

2. The petitioner belongs to Scheduled Caste and he passed the STC Training Course and was duly selected for the post of Illrd Grade Teacher in the pay-scale of Rs. 490-840 by the order dt. 1.2.1985 and was posted at Government Upper Primary School, Guard in district Udaipur. Thereafter petitioner's services were terminated during the summer vacations but he was again appointed and posted

at Ukhadi, Tehsil Kherwara in district Udaipur. The petitioner fell sick and he applied for Medical Leave from 3.9.85 to 31.1.86. He left the Head Quarter after due permission. He sought his extension of leave. The petitioner thereafter joined back on 4.2.1986 and the Dy. Director Education, Rikhabdev by his communication dt. 24.9.86 recommended for grant of leave to the petitioner for 131 days. The Director, by his communication dt. 19/20.8.87 recommended the case to the Dy. Secretary, Education Department, Rajasthan, for grant of above leave. The Dy. Secretary, Education by his communication dt. 3.2.88 informed that the case of the petitioner is not covered under Rule 96(6) of the RSR, therefore, it is not possible to grant extra-ordinary medical leave for 131 days. The petitioner was confirmed on 1.7.1987 by the order dt. 15.7.88 but this order was revoked by the order dt. 27.5.91 by the District Education Officer therefore, the petitioner has challenged this order by filing this writ petition and has also prayed that the petitioner may be given his proper fixation and increments and house rent allowance from 1986-87 onwards till this date.

3. No return has been filed by the respondents.

4. Since the petitioner after his illness has joined back on 1.2.1986 and he is continuing in service, therefore, the respondents are directed now to consider the case of the petitioner for confirmation afresh and should also decide his leave case and he may be given whatever leave is due to him and if it is not due to him then all the leave may be treated as leave without pay and the petitioner may be fixed according to the pay-scale, revised from time to time and he should be given all the allowances and increments which are due to him in accordance with the law. This should be done within a period of three months from today. A copy of this order should be sent to the District Education Officer, Udaipur. Learned Counsel has requested for grant him interest which in the present case I am not inclined to grant. The request is over ruled.

5. With these observations, this writ petition stands disposed of.