

IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A. No. 541 of 2014

With

I.A. No. 6645 of 2014

With

I.A. No. 6651 of 2014

The State of Jharkhand through the Secretary, Human Resources Development Department, Government of Jharkhand, Officiating at MDI Building, Near Project Building, H.E.C. Township, P.O. and P.S. Dhurwa, District- Ranchi

... Appellant

-Versus-

1. Krishna Deo Tiwari, S/o- Sri Girish Tiwari, R/o- Quarter No. M.H. 226G, Azad Nagar, Maithan, P.O. & P.S. Maithan, District- Dhanbad
2. The Vinoba Bhave University, Hazaribag, P.O., P.S. & District- Hazaribag
3. The Vice Chancellor, Vinoba Bhave University, Hazaribag, Officiating at Vinoba Bhave University Campus, P.O., P.S. & District- Hazaribag
4. The BSK College, Maithan through its Principal, Officiating at BSK College Campus, Maithan, P.O. Maithan Dam, P.S. Chirkunda, District- Dhanbad

... Respondents

CORAM: HON'BLE MR. JUSTICE D. N. PATEL
HON'BLE MR. JUSTICE RATNAKER BHENGRA

For the Appellant : Mr. Vikash Kumar, J.C. to A.A.G.
For Respondent No.1 : Mr. Manoj Tandon, Advocate
For the University : Mrs. I. Sen Choudhary, Advocate

14/Dated: 15th February, 2017

Oral Order

Per D.N. Patel, J.:

I.A. No. 6645 of 2014

1. This interlocutory application has been preferred under Section 5 of the Limitation Act for condonation of delay of 786 days in preferring this Letters Patent Appeal.

2. Having heard learned counsel for both the sides and looking to the reasons stated in this interlocutory application especially in paragraph 4 onwards, there are reasonable reasons for condonation of delay. We, therefore, condone the delay of 786 days in preferring this Letters Patent Appeal.

3. Accordingly, I.A. No. 6645 of 2014 is allowed and disposed of.

L.P.A. No. 541 of 2014

1. Having heard learned counsel for both the sides and looking to the contentious issues raised in this Letters Patent Appeal, the same is **Admitted**.

2. Learned counsel for the respondents are waiving notice of admission.
3. Registry is directed to prepare the paper book of this Letters Patent Appeal. This appeal will be listed under the heading "For Hearing", in its seriatim number as per chronology in the 2nd week of December, 2017.

I.A. No. 6651 of 2014

1. This interlocutory application has been preferred for stay of the operation, implementation and execution of the order passed by the learned Single Judge in W.P(S) No. 8015 of 2012, dated 18th July, 2013.
2. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case, it appears that there is prima facie a case in favour of this appellant (original respondent) mainly for the reason that initially respondent no.1 (original petitioner) was appointed on 25th January, 1980 in Class-III post as a temporary employee. Thereafter, pay scale was revised. Later on by creation of Vinoba Bhave University, this employee has started working under the Vinoba Bhave University and, thereafter, by virtue of an order passed by Hon'ble the Supreme Court at Annexure-7 dated 25th September, 1991 directed the University to consider the case of respondent no.1 (original petitioner) and similarly situated other persons for regularisation.
3. It further appears that Annexure-8, order dated 14th March, 1994 was passed by the Vinoba Bhave University for regularisation of this respondent no.1 (original petitioner) with effect from 1st August, 1993. Thus, absorption was made, prima facie, with effect from 1st August, 1993 and not from 25th January, 1980 and, hence, there is prima facie a case in favour of this appellant. The learned Single Judge has given retrospective effect to an order at Annexure-8 from 25th January, 1980, whereas, absorption was made with effect from 1st August, 1993. The balance of convenience is also in favour of this appellant and irreparable loss will be caused if the stay, as prayed for, is not granted to

this appellant. We, therefore, stay the operation, implementation and execution of the judgment and order delivered by the learned Single Judge in W.P.(S) No. 8015 of 2012, dated 18th July, 2013, during pendency and final hearing of this Letters Patent Appeal.

4. Accordingly, I.A. No. 6651 of 2014 is allowed and disposed of.

(D.N. Patel, J.)

(Ratnaker Bhengra, J.)

Ajay/