

IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A. No. 351 of 2014

With

I.A. No. 5613 of 2014

1. The State of Jharkhand through the Principal Secretary, Human Resources Department, Government of Jharkhand, Project Building, P.O-Dhurwa, P.S.-Dhurwa, Dist.-Ranchi
2. Director, Higher Education, Human Resources Development Department, Government of Jharkhand, RanchiAppellants

Versus

1. Ratni Oraon, W/o Late Satyanarayan Oraon
2. Sanjay Oraon, S/o Late Satyanarayan Oraon, Both are R/o Village-Brahmatand, P.O-Madhupur, P.S.-Saraikella, Dist.-Saraikella-Kharsawan
3. The Registrar, Kolhan University, P.O & P.S.-Saraikella, Dist.-Saraikella-Kharsawan Respondents

CORAM: HON'BLE MR. JUSTICE D.N. PATEL
HON'BLE MR. JUSTICE AMITAV K. GUPTA

For the Appellants : M/s. Ajit Kumar, AAG, Mr. L.C.N. Shahdeo,
G.P.IV & Mr. Amrendra Pradhan, Advocate
For the Respondents : Mr. Rajesh Kumar, Advocate

06/Dated:20th January, 2016

Per D. N. Patel, J.:

I.A. No. 5613 of 2014

1. This interlocutory application has been preferred under Section 5 of the Limitation Act for condonation of delay of 237 days in preferring this Letters Patent Appeal.
2. Having heard counsels for both the sides and looking to the reasons stated in this interlocutory application, especially paras 4 to 12 thereof, there are reasonable grounds for condonation of delay.
3. We therefore, condone the delay of 237 days in preferring this Letters Patent Appeal.
4. I.A. no. 5613 of 2014 is allowed and disposed of.

L.P.A. No. 351 of 2014

5. This Letters Patent Appeal has been preferred by the original respondent in W.P. (S) no. 7818 of 2012, which was allowed by the

learned Single Judge, vide order dated 18.12.2013, whereby the writ petition was allowed and Family Pension, Provident Fund, Gratuity, Leave Encashment etc., were allowed to be paid to the respondents.

6. Having heard counsels for both the sides and looking to the facts and circumstances of the case, it appears that respondent no.1 is the original petitioner no.1 who is widow of the deceased-employee, who was employed as Class-IV employee in the erstwhile State of Bihar on 28.06.1978, and continued in the services for several decades. Thereafter, he expired during the course of his employment on 25.12.2011 and therefore, the respondent no.1 who is the widow of the deceased-employee asked for Family Pension, Gratuity, Leave Encashment and other retirement benefits including, compassionate appointment to respondent no.2 (original petitioner no.2) as he is the son of the deceased-employee.

7. It further appears from the facts of the case that after the expiry of the employee, a plea has been taken that he was not appointed against the sanctioned post and that is the only ground on which the retirement benefits were denied to respondent no.1. This contention has been rightly brushed aside by the learned Single Judge, while allowing the writ petition bearing W.P.(S) no. 7818 of 2012 vide order dated 18.12.2013. The employee, who joined the services on 28.06.1978, was working in the State for several years and ultimately, he expired on 25.12.2011, while in service. During the said period, no notice was ever given to the said employee, questioning the legality of his services. Never any notice was issued to the said employee, when he was in service that he was not appointed against any sanctioned post and therefore, after his death when the widow is seeking retirement benefits like Pension, Provident Fund, Family Pension and Gratuity etc., the said plea is not tenable in law because much delay and laches had occurred on the part of the State,

especially looking to the facts of the present case. This aspect of the matter has been properly appreciated by the learned Single Judge while allowing W.P.(S) no. 7818 of 2012.

8. We therefore, see no reason to entertain this Letters Patent Appeal, as no error has been committed by the learned Single Judge in deciding the writ petition and thus, there being no substance, this Letters Patent Appeal, is hereby dismissed.

(D.N. Patel, J.)

(Amitav K. Gupta, J.)

Tarun/Sateyendra