

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). 5316–5317 OF 2025
(Arising out of SLP (C) Nos.10974-10975 of 2025)
(D. No. 16370/2023)

**JAI KARAN KAMAL BANSHI
(DEAD) THR. LRS.**

APPELLANT(S)

VERSUS

THE STATE OF UTTAR PRADESH & ORS. RESPONDENT(S)

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O R D E R

1. Leave granted.

2. The present civil appeals are filed assailing the impugned order dated 04.08.2016 of the Allahabad High Court. The appellants are legal representatives

of the deceased Jai Karan Kamal Banshi, who was working in the cadre of teacher at the relevant point of time.

3. Shorn of details, the brief facts of the case are that deceased was working in one of the seven primary schools run and managed by UP State Cement Corporation Limited (hereinafter referred to as 'the Corporation'). It is not in dispute that the Corporation was an instrumentality of State under Article 12 of the Constitution of India. By an order dated 08.12.1999 in Misc. Company Application No. 4 of 1997, the Corporation ordered to be wound up and official liquidator came to be appointed. As a result, all the teaching and non-teaching staff in the seven schools suffered retrenchment. Thereafter, vide order dated 06.02.2002 in the said Company Application, the Company Judge directed Secretary, Basic Education, U.P. to consider for taking over these seven primary schools. However, being aggrieved by inaction, the deceased along with proforma respondents no. 3 to 24 filed a Civil Misc. Writ Petition No. 6190 of 2003 before High Court. The said writ petition was allowed vide judgment dated 31.03.2006, and the official liquidator was directed to handover the schools to District Magistrates of the concerned district for being taken over by U.P. Basic Education Board. Aggrieved by the said judgment, the respondent-state filed Review Application No. 180243 of 2006 which was also dismissed.

4. Being dissatisfied, Special Appeal Nos. 41 of 2007 and 42 of 2007 were filed and decided by the impugned common judgment whereby the Division Bench set aside the order dated 31.03.2006 passed in writ petition and allowed the appeals on the ground that on 12.02.2004, the State Government took a policy decision not to take over these primary schools as they were neither recognised by the Basic Shiksha Parishad, nor they satisfy the criteria to be so recognized by judgment dated 04.08.2016. The Division Bench further noted that deceased and co-petitioners in the writ were the employees of the Corporation, and their claims have to be examined in that respect. Meanwhile, deceased Jai Karan Kamal Banshi expired on 28.09.2015.

5. While the impugned Special Appeals were pending, this Court vide order dated 09.09.2015 in a matter of similarly placed employees in Civil Appeals Nos. 9165-9172 of 2010 titled Sunil Kumar Verma & ors. v State of U.P. & ors. held that the retrenched employees of the Corporation are entitled for absorption under UP Absorption of Retrenched Employees of Government or Public Corporations in Government Service Rules, 1991. The relevant paragraphs of the said judgment are reproduced as under:

“18. In view of the aforesaid analysis, we find no reason that the appellants herein should not reap the benefits of absorption and, accordingly, it is directed that they shall be absorbed by the State Government as per their seniority and be given the benefit of increments, within eight weeks hence. Needless to say, they will be entitled to their seniority as per the prevalent rules. If anyone has been retired from service, he shall get the retiral benefits inclusive of pension.

19. At this juncture, the question arises as to what amount should be paid towards back wages. In this context, our attention has been invited to the order passed by this Court in contempt proceeding. However, after some debate, learned counsel for the appellants left it to the discretion of this Court. Ms. Reena Singh, learned Additional Advocate General for the State vehemently opposed with regard to grant of any back wages. Having heard the learned counsel for the parties on this score and regard being had to the facts and circumstances of the case, we think that the cause of justice would be best sub-served if each of the appellant is paid 40% of the back wages, and it is so directed. It shall be computed as per our directions issued hereinbefore within a period of twelve weeks hence and be paid to the appellants.”

6. Subsequently, against the order dated 04.08.2016, proforma respondents no. 3 to 25 herein also preferred Civil Appeal Nos. 754-755 of 2017, which was allowed vide order dated 20.01.2017 in terms of order passed in Civil Appeals Nos. 9165-9172 of 2010. However, it is to be noted that deceased Jai Karan Kamal Banshi was not a party. The relevant paragraphs are reproduced below:

“4. The appellants claim that they are similarly situated as the appellants in Civil Appeal Nos.9165-9172 of 2010, which were disposed of by judgment dated 09.09.2015. This Court has taken

the view that the State Government was to absorb the employees of the Cement Corporation. However, having regard to the long break in between, the Court held that the backwages would be limited to 40%. It is the case of the appellants that they are also similarly situated as the appellants in the Civil Appeal referred to above.

5. It appears that the High Court did not have the benefit of perusal of this judgment. Though, ordinarily the matters should have been remanded to the High Court, having regard to the fact that the appellants have been out of service for quite a long time and the similarly situated employees have allegedly been taken back, we are of the view that these appeals can be disposed of with a direction to the respondents to consider the cases of the appellants also in the light of the judgment in Civil Appeal Nos.9165-9172 of 2010 and in case the appellants herein are also similarly situated as the appellants therein, similar treatment shall be given to the appellants herein as well. We order accordingly.”

Subsequent to this, a Contempt Petition (C) Nos. 686-687 of 2018 and connected matters was filed alleging non-compliance, which was disposed of by this Court vide order dated 20.09.2018. The relevant paragraphs are reproduced below:

“1. So long as there is no dispute that the members of the teaching staff and non-teaching staff were the employees of the Cement Corporation, there cannot be any distinction with regard to the absorption on the ground that the teachers did not possess the Teachers Eligibility Test (TET) qualification. There was no requirement for teachers eligibility test at the time of their retrenchment.

2. Therefore, it is clarified that the petitioners before this Court shall be entitled for absorption without insisting for Teachers Eligibility Test.”

7. Now it was submitted by the appellant herein that deceased Jai Karan Kamal Banshi being a similarly placed employee would be entitled to the similar relief as granted to the similarly placed employees in Civil Appeal Nos. 754-755 of 2017, *vide* order dated 20.01.2017 which was passed in terms of the order dated 09.09.2015 in Civil Appeal Nos. 9165-9172 of 2010; and order dated 20.09.2018 in Contempt Petition (C) Nos. 686-687 of 2018 and connected matters. It was further submitted that the deceased expired during pendency of Special Appeals before the Division Bench and appellants being unaware of such proceedings failed to get themselves impleaded as co-petitioners in Civil Appeal Nos. 754-755 of 2017. Further, similarly placed employee late Gyan Das Singh through his legal representatives had also filed an SLP (C) Diary No. 26311 of 2019 before this Court which came to be allowed in terms of order dated 20.01.2021 and as such appellant, may be extended similar relief. The respondent-State in counter affidavit does not dispute the said facts but resisted the prayer on the ground of enormous delay of around 2358 days.

8. We have heard the learned counsel for the parties and perused the

documents placed on record. It is not in dispute that deceased Jai Karan Kamal Banshi was similarly placed as of the employees of Civil Appeal Nos. 754-755 of 2017 and Civil Appeal Nos. 9165-9172 of 2010. Hence, without proceeding further into unnecessary details, we allow these appeals with a direction to the respondent-State to consider the case of appellant in light of the order dated 20.01.2017 in Civil Appeals Nos. 754-755 of 2017 which was passed in terms of order dated 09.09.2015 in Civil Appeal Nos. 9165-9172 of 2010; and order dated 20.09.2018 in Contempt Petition (C) Nos. 686-687 of 2018 and connected matters; and it is directed that he be treated at par with other similarly situated employees and be extended similar benefits. It is clarified that while granting such benefits, the appellants would not be entitled to seek any interest on the arrears as they have approached the Court belatedly.

9. In view of the foregoing discussions, these appeals are allowed and the orders passed by the High Court stand set aside. The respondents are directed to consider the case of the appellants in terms of the above discussions and grant at par benefits to the LRs of the deceased employee, within a period of three months and the same be paid to the LRs within the said period excluding interest as discussed above. Pending interlocutory applications (if any) shall stand disposed of.

.....,J.
[J.K. MAHESHWARI]

.....,J.
[ARAVIND KUMAR]

**New Delhi;
April 17, 2025.**

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 16370/2023

[Arising out of impugned final judgment and order dated 04-08-2016 in SPLA No. 41/2007 04-08-2016 in SPLA No. 42/2007 passed by the High Court of Judicature at Allahabad]

JAI KARAN KAMAL BANSHI (DEAD) THR. LRS.

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(IA No. 127624/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT IA No. 181162/2023 - EXEMPTION FROM FILING O.T. IA No. 127627/2023 - EXEMPTION FROM FILING O.T. IA No. 181158/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES IA No.127622/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 17-04-2025 This matter was called on for hearing today.

**CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE ARAVIND KUMAR**

For Petitioner(s) : M/S. Sharan & Associates, AOR

**For Respondent(s) : Mr. Sanjay Kumar Tyagi, AOR
Mr. Shaurya Krishna, Adv.
Mr. Parvesh Tyagi, Adv.
Mr. Pawan, Adv.
Ms. Arohi Sanklan, Adv.**

**UPON hearing the counsel the Court made the following
O R D E R**

1. Delay condoned.
2. Leave granted.
3. These appeals are allowed in terms of the signed order and

the orders passed by the High Court stand set aside. Pending interlocutory applications (if any) shall stand disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(NAND KISHOR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)