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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.314 OF 2001
WITH
CIVIL APPLICATION NO.7901 OF 2015
AND
CIVIL APPLICATION NO.153 OF 2015
IN
WRIT PETITION NO.314 OF 2001

THE SUPERINTENDENT, AGRICULTURAL SCHOOL, PAITHAN ROAD,
AURANGABAD AND OTHERS.

VERSUS
DEORAO JAKUJI NAVTURE.

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Advocate for Applicant : Mr.Irale Patil D.R..
Advocate for Respondent: Mr.R.M.Deshmukh.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 14th August, 2015

Per Court:

1 I have heard Shri Irale Patil, learned Advocate for the
Petitioner/Applicant/ Establishment and Shri R.M.Deshmukh, learned
Advocate for the sole Respondent (Sunil Deorao Navture) who is the sole
legal heir of the deceased Respondent – Deorao Jakuji Navture.

2 The Writ Petition was dismissed for non prosecution by the
order dated 10.03.2014. The Petitioner preferred Civil Application
No.153/2015 for condonation of 226 days' delay in filing the application

for recalling of the order dated 10.03.2014.

3 Having heard the learned Advocates and for the reasons set out in the Civil Application No.153/2015, the same is allowed. The delay of 226 days is condoned. The order dated 10.03.2014 passed by this Court is recalled. Writ Petition No.314/2001 is restored. However, the Petitioner/ Applicant shall deposit costs of Rs.5000/- in this Court within a period of FOUR WEEKS from today. Upon depositing the costs, the sole legal heir of the deceased Respondent, namely, Sunil Deorao Navture shall be at liberty to withdraw the same. Shri Irale Patil submits that the Applicant shall not fail in depositing the said amount as directed above.

4 By Civil Application No.7901/2015, the Applicant prays for arraying the legal heir of the deceased Respondent in the petition. This Civil Application is allowed. Addition of the legal heir in the petition is allowed and the same be carried out forthwith.

5 With the consent of the learned Advocates, I have considered the Writ Petition. The same was admitted by this Court on 22.01.2001. The impugned judgment of the Industrial Court dated 20.11.2000 delivered in Complaint (ULP) No.143/1996 was stayed by this Court by way of interim relief.

6 A peculiar situation has arisen in this proceeding. Shri Irale Patil points out from page 30 of the petition paper book, the application for obtaining voluntary retirement dated 07.11.2000 filed by the deceased Respondent. He then points out page 31 of the petition paper book by which the resignation was accepted and the Petitioner paid an amount of Rs.27,990/- to the deceased Respondent as full and final payment of legal dues.

7 This act of resignation and its acceptance has occurred during the pendency of Complaint (ULP) No.143/1996 which was instituted by the deceased Respondent seeking permanency and benefits incidental and consequential thereto.

8 The fact of the deceased Respondent's resignation and its acceptance and payment of all legal dues, which occurred on 07.11.2000, was inadvertently not brought to the notice of the Industrial Court which delivered the impugned judgment on 20.11.2000 which is on 13th day following the acceptance of his resignation.

9 In the light of the above, the cause of action does not survive and since the deceased Respondent has voluntarily resigned and taken all

his benefits. The impugned judgment of the Industrial Court dated 20.11.2000 as well as this Writ Petition preferred by the Petitioner, are rendered infructuous. Hence, Writ Petition is disposed of. Rule is discharged.

(RAVINDRA V. GHUGE, J.)