

kps

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

CIVIL APPLICATION NO. 4497 OF 2012
IN WP/3644/1996
WITH
WRIT PETITION NO.3644 OF 1996

M.S.R.T.C., AURANGABAD.
VERSUS
BABULAL CHHAGANLAL CHOUDHARI.

...

Advocate for Applicant : Mrs.Reddy Ranjana D.
Advocate for Respondents : Mr.H.V.Tungar h/f Mr.C.R.Deshpande, for
R/1A & 1C.
Mr.Parag Shahane, for R/1B & 1E.

...

CORAM: RAVINDRA V. GHUGE, J.
DATE :- 16th June, 2015

Per Court:

(a) Civil Application No.4497/2012:-

1 By this application, the Corporation prays for permission to bring the legal heirs of the deceased sole Respondent (Babulal Choudhari) on record in Writ Petition No.3644/1996, which has already been admitted by order dated 05.08.1996. Interim relief in the nature of stay to the recovery of back-wages was granted and the interim relief against the order of reinstatement was refused.

2 Learned Advocate for the Applicant submits that the delay is neither intentional nor deliberate. The circumstances which caused the delay are mentioned in the application. The deceased Respondent was

reinstated from 24.08.1996 and he resigned from employment on 21.09.2002. The said Respondent passed away on 27.08.2003 and the Purshis was filed by the Advocate for the Respondent on 01.10.2008.

3 It is further submitted that if the delay is not condoned and the order of abatement is not set aside, the Applicant/ Corporation would suffer irreparable harm in the light of the fact that the charge proved against the deceased Respondent was of assaulting the superior.

4 Mr.Tungar a/w Mr.Shahane, learned Advocates for the legal heirs of the deceased Respondent, vehemently opposed this application on the ground that the reasons cited are not satisfactory. There is utter negligence on the part of the Corporation. Since the Corporation was granted interim relief against the recovery of back-wages, it became complacent and therefore, was negligent.

5 The petition is of 1996. The order of termination pursuant to the charge sheet dated 12.04.1986 thereby, dismissing the deceased Respondent is dated 22.12.1988. In the light of the long standing litigation and the fact that the petitions instituted in 1994 onwards are being taken up for final hearing on Thursdays, ends of justice would be met by condoning the delay and allowing this application by imposing

costs on the Applicant/ Corporation.

6 In the light of the above, this application is allowed. Delay is condoned. The order of abatement is set aside. However, the Applicant/ Corporation shall deposit an amount of Rs.10,000/- (Rupees Ten Thousand) in this Court within a period of FOUR WEEKS from today. The amount so deposited, shall be withdrawn by the legal heirs of the deceased Respondent in equal proportion without any condition.

7 After depositing costs, the Applicant shall bring the legal heirs of the deceased Respondent on record in the Writ Petition within TWO WEEKS therefrom.

8 In the event of non compliance of this order, the same shall stand recalled, the Civil Application then shall stand rejected and thereafter, the order of abatement shall stand restored.

(b) Writ Petition No.3644/1996:-

9 In the light of the order passed by this Court today in Civil Application No.4497/2012, this Writ Petition be listed for final hearing on 23.07.2015.

(RAVINDRA V. GHUGE, J.)