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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 597/2016 & CM Nos.40526/2016 (*stay*) &
4092/2017 (*directions*)

RATTAN SINGH Appellant

Through: Mr. Ashish Mohan with
Ms. Manpreet Kaur, Advs.

Versus

INDIRA GANDHI NATIONAL OPEN UNIVERSITY & ANR

..... Respondents

Through: Mr. Kirtiman Singh, Adv. for
IGNOU.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

02.03.2017

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1. The petitioner in W.P.(C) No.9717/2016 is the appellant before us.
2. The said writ petition was filed aggrieved by the order of the respondent No.1 University dated 22.08.2016 whereby the petitioner/appellant herein, working as Executive Engineer, was reverted back to the substantive post, i.e., Assistant Executive Engineer with effect from 18.06.2015. The subsequent order dated 27.09.2016 re-fixing the pay scale of the petitioner in the post of Assistant Executive Engineer was also impugned.
3. Along with the petition, though the appellant/writ petitioner filed a Miscellaneous Application seeking stay of the impugned orders, no such

relief was granted and the writ petition along with the Miscellaneous Application was adjourned to 02.12.2016 to enable the counsel for the University to obtain instructions.

4. Aggrieved by the said order of the learned Single Judge dated 24.10.2016, the present appeal has been preferred. Having entertained the appeal, this Court passed the following order on 27.10.2016:

"This Intra Court Appeal is directed against the order dated 24.10.2016 passed by the learned Single Judge.

The grievance of the appellant is that the counsel for the respondent no.1 - Indira Gandhi National Open University has been given time to take instruction with respect to the recoveries of the salary paid to the appellant when he had worked as Executive Engineer but no stay has been granted. It is stated that recoveries are being effected.

Learned counsel for the appellant also submits that vide common order dated 22.08.2016, Y.Nooruddin who working as Executive Engineer (Civil) was reverted to the substantive post of Assistant Engineer (C/E). The said Y.Nooruddin has filed W.P.(C) No.8737/2016 and status quo has been directed to be maintained.

Mr.Kirtiman Singh, CGSC who appears for Indira Gandhi National Open University was asked to point out the difference between the case of the appellant and Y.Noorudding. He states that he has not examined this aspect as notice has not been issued in the writ petition filed by the appellant.

Learned counsel for the appellant, on the other hand, has drawn our attention to the factual matrix of the case and submits that the two cases are identical except for the fact that Y.Nooruddin was appointed and working as Executive Engineer (Civil) and the appellant was appointed as Executive Engineer (Electrical). They were appointed under FR 49 against the project post.

Issue notice, returnable on 19.12.2016.

The order of status quo would mean that same benefits or advantages would accrue to the appellant as accrued or being granted to Y.Nooruddin with regard to the recoveries and payment of salary. It is also clarified that in case we do not find any merit in the appeal or the writ petition is dismissed, the appellant would be liable to rectitude the respondent for any excess payment. The appellant would furnish an undertaking in this regard within a week from today.

Copy of this order will be given *dasti* under the signature of the Court Master to counsel for the parties."

5. The abovesaid order of status quo has been in operation till date.
6. It is brought to our notice that the respondents have already filed their counter affidavits in the main writ petition and the same can be heard and decided.
7. In the circumstances, it appears to us that it is not necessary to keep this appeal pending any longer and the interest of justice would be met if the order of status quo dated 27.10.2016 granted in this appeal is continued till appropriate order is passed by the learned Single Judge hearing the writ petition.
8. Though the learned counsel for the appellant sought to make submissions on merits of the case and requested for grant of further reliefs, having regard to the fact that the pleadings are complete in the writ petition, we decline to enter into the merits of the case and express any opinion with regard to the rival claims of the parties. Instead, we consider it appropriate to dispose of the appeal leaving it open to the learned Single Judge to decide the writ petition in accordance with law.
9. Both the parties are at liberty to urge all the grounds as permissible under law before the learned Single Judge. It is also open to the parties to

move an appropriate application in the pending writ petition in case any further interim relief is required. The order of status quo dated 27.10.2016 passed in this appeal shall continue till such order is passed by the learned Single Judge.

10. Appeal is accordingly disposed of.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

MARCH 02, 2017

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