

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1657 of 2016

In

Civil Writ Jurisdiction Case No.6476 of 2013

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1. Ramji Paswan S/O Late Dhanuki Paswan Resident Of Village - Adampur, P.O. - Katarmala, Garaul, P.S. - Garaul, District - Vaishali
 2. Mauje Thakur S/O Sri Yogal Thakur Resident Of Village - Manika Gujee, P.S. - Manika, P.S. - Musahari, District - Muzaffarpur
 3. Smt. Urmia Devi W/O - Rajendra Sah R/O Mohalla - Amgola, P.S. - Kazi Mohammadpur, Dist- Muzaffarpur

... .. Appellants

Versus

1. The Baba Saheb Bhim Rao Ambedkar University Through Its Vice Chancellor.
2. The Registrar, B.R.A. Bihar University, Muzaffarpur.
3. The Finance Officer, B.R.A. Bihar University, Muzaffarpur.
4. The Principal, M.D.D.M. College, Muzaffarpur.
5. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, New Secretariat, Patna.

... .. Respondents

Appearance :

For the Appellants	:	Mr. Shivendra Kishore, Senior Advocate Mr. Vijay Anand, Advocate
For the Respondent State:		Mr. Ajay Behari Sinha, GA-8 Mr. Santosh Kumar, AC to GA-8

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 03-01-2018

Heard counsel for the parties.

Appeal has been preferred against a part of the order dated 25.07.2016 passed by the learned single Judge. It is the rejection of the prayer for grant of salary and other consequential benefits from the earlier period of engagement and appointment of these petitioners, which has brought these appellants before this Court.



The submission of the learned senior counsel is that their case is squarely covered by the decision rendered by the Hon'ble Apex Court in the case of ***Direct Recruit Class II Engineering Officers Association v. State of Maharashtra*** reported in **AIR 1990 SC 1607**. With due respect to the learned senior counsel, a judgment cannot be quoted out of context where even the facts are not similar to the decision which has been rendered by the Hon'ble Apex Court. The learned single Judge has this to state while rejecting such a claim in paragraph 12, which is reproduced hereinbelow :

“12. In view of the aforesaid discussion applying the aforesaid principle it is an admitted fact that petitioners have entered into service earlier when they were not regularised they approached this Court for regularisation, the University constituted a Committee, found their entry to be legal and in pursuance thereof they have been regularised in service. The University itself regularize the service, so at this stage plea of the University that entries of the petitioners are illegal and nonest as it is against violation of Articles 14 and 16 of the constitution of India and cannot be reopened. The only question left for pensionary benefits whether the earlier period will be reckoned when the petitioners have been working right from beginning as stated hereinabove and they were pursuing the matter of regularisation ultimately at the behest of this Court their services were regularised. It will be travesty of justice to ignore the period they have discharged in service only for the purpose of pensionary benefits.”



We are in agreement with the stand taken by the learned single Judge that in the given facts and the manner of engagement and appointment of these appellants, no kind of relief can be granted for the period they were initially engaged, which were in violation of Article 14 and 16 of the Constitution of India, however, after their regularization the relief has been granted and nothing more can accrue in favour of these appellants.

There is no infirmity in the decision of the learned single Judge. Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	03.01.2018
Transmission Date	N/A

