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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2819 OF 2018

Fr. Conceicao Rodrigues Institute of
Technology & Ors ... Petitioners

V/s.

Leslie Joaquim Rodrigues ... Respondent

Mr. Lancy D'souza a/w Ms. Deepika Agarwa; i/by Mr.
Vishwambhar Mahadev Parkar, for Petitioners.

Mr.Vinayak R. Kumbhar, for Respondent.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 8, 2024

P.C.:

1. The petitioners are challenging order passed by the University & College Tribunal in Appeal No.8 of 2014 on 13 October 2017, thereby directed to reinstate in service in respondent No.1/institute with continuity in service, with full back wages, and all consequential benefits from the date of dismissal.

2. The facts in brief of the relevant for passing of the order are as under :

Respondent was in the employment of the petitioners as Assistant Workshop Superintendent, for a period of 21 years. *Respondent* was detained for criminal offence under Section 49(b) and 51 of the Indian Wildlife (Protection) Act, 1972. The petitioner, therefore issued suspension order alleging misconduct

committed by *respondent*. On 30 May 2013, the *respondent* was intimated that the petitioners shall holding departmental inquiry in respect of misconduct of *respondent*. Accordingly, departmental inquiry was conducted and inquiry officer submitted his report. *Respondent* on 28 May 2014 submitted *his* reply to the findings of inquiry officer. On 30 June 2014, *respondent* was dismissed from services by the petitioners.

3. *Respondent*, therefore, filed Appeal No.8 of 2014 before the University and College Tribunal. The petitioners contested the appeal by filing reply. After conclusion of oral arguments, the petitioners and *respondent* filed their respective arguments.

4. On 13 October 2017, the University and College Tribunal passed the impugned judgment and order directing reinstate of *respondent* along with consequential benefits.

5. The petitioners have, therefore, filed present writ petition challenging the impugned judgment *inter alia* on the ground that the reasoning stated in paragraphs 31 to 42 of the impugned order are a reproduction of pages 11 to 21 of the written synopsis filed by respondents, including the brackets marked in the said synopsis, save and except for a few superficial changes in words which in fact convey the same meaning as those used in the written synopsis filed by the respondents.

6. On perusal of the impugned judgment and after scrutiny of written submissions filed by the *respondent*, I am satisfied that one of the ground raised by the petitioner indicated above is borne out of record. On careful reading of written submissions filed by the

respondent, I have no doubt that the paragraphs 31 to 42 of the impugned judgments are nothing but reproduction of pages 11 to 21 of written submissions submitted by the respondents, save and except for superficial changes. It also shows that bracketed portions of the written submissions are also copied in the judgment as it is. It is not independent consideration of the University and College Tribunal. Therefore, the decision making process by the University and College Tribunal shows complete non-application of mind; therefore, the impugned order cannot be sustained. Hence, following order:

- i) The impugned judgment and order passed by the University and College Tribunal dated *13 October 2017* in Appeal No.8 of 2014 is quashed and set aside.
- ii) The Presiding Officer of the University and College Tribunal, Mumbai is directed to reconsider the appeal of *respondent* on its own merits, uninfluenced by the observations made in the impugned judgment or in the present order.
- iii) Considering the facts that, the services of *respondent was* terminated in 2014, the University and College Tribunal shall decide the appeal within six months from today.

7. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)

Note:- This order is modified as per order dated 18 January 2024. Corrections are shown italicize.

2:- This order is further modified as per order dated 6 February 2024. Corrections in paragraph 6 (i) are shown italicize.