

A JAI NARAIN VYAS UNIVERSITY, JODHPUR AND ANR.

v.

MUKESH SHARMA ETC. ETC.

(Civil Appeal Nos. 2096-2198 of 2022)

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MARCH 28, 2022

[M. R. SHAH AND B.V. NAGARATHNA, JJ.]

Service Law – Regularization – Consequential benefits – Respondents-writ petitioners, were working on different posts in appellant-University for 15 to 30 years, on contractual / daily wage basis – They prayed for regularizing their services on ground of parity with similarly situated employees who were confirmed and were also granted regular pay scale – Writ petitions – High Court directed the University to regularize the services of respondents with all consequential benefits – Held: No reason to interfere with the judgment passed by High Court granting regularization – However, on facts, to meet the ends of justice, the actual consequential benefits accruing from the regularization restricted to three years prior to filing of the writ petitions.

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Partly allowing the appeals, the Court

HELD: These writ petitions were filed in the year 2018/2019. In order to see that there is no heavy financial burden upon the University and at the same time to strike a balance and considering the fact that the respective original writ petitioners have worked for more than 15 to 30 years, if it is ordered that the actual consequential benefits on regularization of their services are restricted to three years prior to filing of the writ petitions, while they are granted the benefit of regularization notionally and with continuity of the service from the date on which the other similarly situated employees were regularized, it will meet the ends of justice. [Para 4][845-E-G]

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CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 2096- 2198 of 2022. A

From the Judgment and Order dated 13.08.2021 and 17.08.2021 of the High Court of Judicature for Rajasthan at Jodhpur in DB Civil Special Appeal Writ No. 347 of 2019, D.B.Spl. Appl. Writ Nos. 1759, 1791, 1853, 1857, 1864, 1865, 1870, 1871, 1874, 1891, 1898 and 1911 of 2018, and D.B. Spl. Appl. Writ Nos. 127, 133, 135, 138, 163, 169, 170, 171, 221, 222, 241, 243, 244, 245, 247, 251, 278, 304, 305, 306, 307, 310, 320, 321, 322, 323, 324, 325, 328, 330, 331, 332, 333, 342, 344, 350, 354, 356, 360, 361, 362, 363, 375, 382, 387, 395, 404, 411, 419, 442, 443, 449, 452, 454, 455, 496, 497, 498, 499, 500, 523, 549, 552, 553, 564, 567, 572, 577, 605, 761, 762, 763, 764, 765, 766, 767, 854, 856, 888, 889, 890, 891, 892, 934, 941, 955, 956, 957 of 2019 and D.B. Spl. Appl. Writ No. 333 of 2020 and D.B. Spl. Appl. Writ No. 326 of 2019. B C

Dr Manish Singhvi, Sr Adv., Arpit Parkash, Prashant Kumar, Advs. for the Appellants. D

Dr. Vineet Kothari, Dr. Nikhil Dungawat, Nihar Jain, Rajesh Kumar, Ms. Chitrangda Rastravara, Manvendra Singh, Dashrath Singh, Gp. Capt. Karan Singh Bhati, Advs. for the Respondents.

The Judgment of the Court was delivered by

M. R. SHAH, J. E

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Judicature for Rajasthan at Jodhpur in D.B. Spl. Appl. Writ No. 347 of 2019 and other allied writ appeals by which the Division Bench of the High Court has dismissed the said appeals and has confirmed the judgment and order passed by the learned Single Judge passed in respective writ petitions by which the learned Single Judge allowed the said writ petitions and directed the appellant University to regularize their services with all consequential benefits, the employer University has preferred the present appeals. F

2. The respective original writ petitioners were appointed on different posts namely viz. Chowkidar/Peon, Book Attendant, LDC, Library Assistant, Junior Accountant, Accountant, Helper, Staff Nurse, Sweeper, Rakshak, Lab Bearer, Lab Attendant, Book Lifter, Security Guard, Matron, Driver/Peon, LDC cum Computer Operator of the appellant- Jai Narayan Vyas University, Jodhpur (hereinafter referred H

A to as the “J.N.V. University”) on different dates through the placement agency. Since all of them had already put in almost 15-30 years of service, they requested for regularizing their services in the University but their services were not regularized.

2.1 In the year 1999, the meetings of the Sub-Committee constituted by the Vice Chancellor of the University were held on 22.03.1999 and 26.03.1999 for considering regularization of the services of six persons who were rendering their services in a similar fashion like the respondents herein - petitioners in the University on contractual/daily wage basis. The said Sub-Committee recommended for regularization of their services. The said recommendation was confirmed in a Meeting of the Syndicate dated 28.03.1999. Once again, the respondents-petitioners prayed for regularizing their services on the ground of parity in view of the decision taken by the Syndicate of the University on 28.03.1999 whereby six similarly situated employees were confirmed and were also granted regular pay scale. However, the same was not agreed to by the University.

2.2 It is to be noted that the University Administration vide its Notification dated 27.10.2017 sought information in a prescribed proforma from different departments regarding persons rendering the services on contract basis, probably with a view to regularize their services. However, their services were not regularized and therefore separate writ appeals were filed before the High Court and the same were allowed by different Benches of the High Court directing the University to regularize the services of the respondents herein – original writ petitioners with all consequential benefits.

2.3 The judgments and orders passed by different Benches were the subject matter before the Division Bench. By the impugned common judgment and order, the Division Bench of the High Court has dismissed the said appeals. While dismissing the appeals, the Division Bench has also noted that the writ petitions preferred by some of the employees were allowed by the learned Single Judge Benches and the appeals preferred by the Universities were also dismissed by the Division bench and in some of the cases, even the special leave petitions filed by the University before this Court were also dismissed.

2.4 Feeling aggrieved and dissatisfied with the impugned common judgment and order passed by the High Court, the University has preferred the present appeals.

3. By order dated 07.02.2022, this Court issued a limited notice to restrict the benefits accruing from the regularization to three years prior to filing of the writ appeals. The order dated 07.02.2022 reads as under:- A

“We have heard Dr. Manish Singhvi, learned Senior Advocate, appearing for the petitioner-University at length.

By the impugned judgment and order, the High Court has directed to regularize the services of the respondents with all consequential benefits. In the facts and circumstances of the case, we see no reason to interfere with the impugned judgment and order passed by the High Court granting regularization, more particularly, the concerned employees have been continued in service, may be on contractual basis, for more than 15-30 years of service. The question of law, if any, is kept open. B C

Now, so far as the giving consequential benefits on regularization, we issue limited notice to the respondents, returnable on 14.03.2022 and to show cause why the benefit accruing from the regularization may not be restricted to the three years prior to filing of the writ petitions. D

Dasti, in addition, is permitted.”

4. We have heard Dr. Manish Singhvi, learned Senior Advocate appearing on behalf of the appellant University and Dr. Vineet Kothari and Ms. Chitrangda Rastravara, learned counsel appearing on behalf of the respective respondents – original writ petitioners. These writ petitions were filed in the year 2018/2019. In order to see that there is no heavy financial burden upon the University and at the same time to strike a balance and considering the fact that the respective original writ petitioners have worked for more than 15 to 30 years, if it is ordered that the actual consequential benefits on regularization of their services are restricted to three years prior to filing of the writ petitions, while they are granted the benefit of regularization notionally and with continuity of the service from the date on which the other similarly situated employees were regularized, it will meet the ends of justice. E F

5. In view of the above and for the reasons stated above, the impugned common judgment and order passed by the Division Bench of the High Court and those of the learned Single Judge are hereby modified and it is ordered that the original writ petitioners shall be entitled to the actual consequential benefits on regularization for the period prior to three years of filing of the writ petitions only. However, they shall be G H

- A entitled to continuity in service and benefits notionally on regularization, from the date on which the similarly situated employees were regularized.

All these appeals are partly allowed to the aforesaid extent. However, in the facts and circumstances of the case, there shall be no order as to costs.

Bibhuti Bhushan Bose

Appeals partly allowed.