

A

STATE OF U.P. & ANR.
v.
RAM ADHAR
(Civil Appeal No. 5691 of 2002)

B

APRIL 10, 2008

(H.K. SEMA AND MARKANDEY KATJU, JJ.)

Service Law :

C – *Ad-hoc appointment of stenographer – For three months – Continuing after stipulated period – Incumbent failed in test – Orders by High Court in his writ petition to allow him to continue till regular appointment – Held: Ad/hoc appointee has no right to the post – Orders of High Court set aside.*

D *State of U.P. v. Kaushal Kishore, (1991) 1 SCC 691-
relied on.*

Service Law :

E *Appointment to posts requiring special skills –Held: For
appointment on such posts, the only criterion should be merit
disregarding any recommendation made by any one – If an
incompetent stenographer is appointed for the Court, the result
will be that correct orders passed by Judge will not be recorded
and this will create many problems – Much of the time of the
Judge will be spent on making corrections – Therefore, great
F care must be taken by selection committee in selecting
persons on such posts.*

CIVILAPPELLATE JURISDICTION : Civil Appeal No. 5691
of 2002.

G

From the Judgment and Order dated 14.8.2001 of the High
Court of Judicature at Allahabad (Lucknow Bench) Lucknow in
S.A. No. 185/2001.

Fuzail Khan, Sehdev Singh, Anil Kumar Jha and Ravi
Prakash Mehrotra for the Appellants.

H

K. Sharda Devi for the Respondent.

A

The order of the Court was delivered

This appeal filed by the State is directed against the judgment and order dated 14.08.2001 passed by the Division Bench of the Allahabad High Court.

B

Heard the parties.

The respondent herein was appointed on ad hoc basis on the post of Stenographer for a period of three months. The time was extended twice and ultimately, the respondent also appeared in the test but failed. The respondent preferred writ petition before the learned Single Judge. The same was disposed by the learned Single Judge allowing the respondent to continue till the regularly selected Stenographer joins the post. The same was confirmed by the Division Bench of the High Court.

C

D

While issuing notice on 15.10.2001 this Court stayed both the orders of the Division Bench and the learned Single Judge. In view of the interim order, the respondent is no more in service today. Even otherwise an ad hoc appointee appointed for a period of three months as Stenographer, whose term is further extended, should not be allowed to continue in the public interest when he failed in the test.

E

It may be mentioned that there is no principle of law that a person appointed in a temporary capacity has a right to continue till a regular selection. Rather, the legal position is just the reverse, that is, that a temporary employee has no right to the post vide State of U.P. v. Kaushal Kishore, (1991) 1 SCC 691. Hence, he has no right to continue even for a day as of right, far from having a right to continue till a regular appointment.

F

G

On this sole ground we set aside both the orders of the learned Single Judge and the Division Bench of the High Court. This appeal is allowed. No costs.

Before parting with this case we would like to mention that

H

- A very often selection and appointments are made on posts requiring special skills like that of a stenographer. On such posts the only criterion should be merit. However, very often such appointments are not made on merit but on some recommendations, and such appointees are very often incompetent.

If an incompetent stenographer is appointed for the Court the result will be that the correct order passed by the Judge will not be recorded, and this will create many problems. Much of the time of the Judge will be spent on making corrections. Hence great care must be taken by the selection committee for selecting persons to be appointed on posts requiring special skills like that of a stenographer purely on merit disregarding any recommendation made by anyone, howsoever high.

D R.P.

Appeal allowed.