

Supreme Court of India

Principal, Industrial Training ... vs Abhay Kumar Srivastava on 26 July, 1994

Equivalent citations: (1996) IILLJ 684 SC, 1995 Supp (4) SCC 617

Author: S Agrawal

Bench: S Agrawal, S Mohan

ORDER Mr. S.C. Agrawal, J.

1. The respondent was appointed as a Shorthand Instructor with the Industrial Training Institute, Ghazipur. The said appointment was made by letter dated December 6, 1989 on daily-wage basis. He was being paid @ Rs 20 per day. The said appointment was continued till February 4, 1991 with two breaks in service. He moved the High Court under Article 226 of the Constitution of India for a writ, order or direction commanding the appellants to treat the respondent as continuing in service. The High Court disposed of the said writ petition by order dated September 23, 1993 with the direction that the respondent shall henceforth be paid regular salary admissible for his post.

2. The learned Counsel for the appellant has submitted that the High Court was in error in giving the directions regarding payment of regular salary admissible for the post of Shorthand Instructor to the respondent. It has been pointed out that the work and duties of Regular Instructors are different from the work and duties of daily-wage Instructors. Having perused the nature of the work and duties which are required to be performed by Regular Instructors and the work and duties of daily-wage Instructors we are of the view that the respondent can be given the salary paid to the Regular Instructor only if it is found that the work and duties performed by him are the same as those performed by Regular Instructors. Such a determination can be made only on the basis of evidence and a proceeding under Article 226 of the Constitution is not an appropriate remedy for such a determination. The respondent may move the appropriate forum for seeking redress in this regard.

3. It has been submitted by the learned Counsel for the respondent that in case regular vacancies on the post of Shorthand Instructor are filled the respondent should be considered for the said post. The learned Counsel for the appellants has fairly stated that in case a regular vacancy on the post of Shorthand Instructor arises and selection is made for filling the post, an opportunity will be given to the respondent to put forth his claim for selection for regular appointment on such post.

4. The appeal is, therefore allowed, order of the High Court is set aside and the writ petition filed by the respondent is dismissed. No order as to costs.