

Supreme Court of India

Sh. Maheshwari Senior Higher ... vs Bhikha Ram Sharma And Ors on 12 February, 1996

Bench: K. Ramaswamy, G.B. Pattanaik

CASE NO. :

Appeal (civil) 3645 of 1996

PETITIONER:

SH. MAHESHWARI SENIOR HIGHER SECONDARY SCHOOL AND ANR.

RESPONDENT:

BHIKHA RAM SHARMA AND ORS.

DATE OF JUDGMENT: 12/02/1996

BENCH:

K. RAMASWAMY & G.B. PATTANAIK

JUDGMENT:

JUDGMENT 1996 (2) SCR 466 The following Order of the Court was delivered : Leave granted.

This appeal by special leave arises from the order of the Rajasthan High Court made in D.B. Special Appeal (Writ) No. 492/95. The short question is: whether the respondent can be permitted to continue in a post that stands abolished? It is not in dispute that the respondent was appointed as Steno- Typist on ad hoc basis w.e.f. July 15,1992. While he was continuing, the Management had passed a Resolution on May 21, 1994 stating that there was no necessity to continue the ad hoc post of Steno-typist. Consequently, the post stood abolished. Thereafter, the impugned order was passed on May 31, 1994 terminating the service. When the appellants had proceeded to the Tribunal and then to the High Court, the High Court came to the conclusion that termination is not according to rules and directed to conduct an enquiry according to Rules and to take a decision. The approach adopted by the High Court is wholly erroneous. It is settled law that on abolition of the post, the existing holder of the post ceases to continue from the date of abolition of the post. Since the termination of the service of the respondent is only due to abolition of the post, the question of conducting the enquiry under Rules does not arise.

The appeal is accordingly allowed. No costs. G.N.