

State of U.P. and ors. Vs. Umesh Chandra Joshi and anr.

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SooperKanoon Citation : sooperkanoon.com/484111

Court : Allahabad

Decided On : Nov-22-2001

Reported in : 2002(1)AWC323

Judge : M. Katju and ;Kamal Kishore, JJ.

Appeal No. : Writ Petition No. 6501 of 1993 (SS)

Appellant : State of U.P. and ors.

Respondent : Umesh Chandra Joshi and anr.

Advocate for Def. : I.C. Dutt, ;I.B. Singh, ;Satya Prakash, ;T.N. Yadav, ;Sarita Verma and ;Bani Baruwa, Advs.

Advocate for Pet/Ap. : Umeshwar prasad Srivastava, C.S.C. and ;S.C. Srivastava, Adv.

Disposition : Petition allowed

Judgement :

M. Katju, J.

1. Heard learned counsel for the parties.

2. This writ petition has been filed against the impugned order of the U. P. Public Service Tribunal dated 2.2.1993. The respondent No. 1 was a purely temporary

employee. It is settled law that a temporary employee has no right to the post. There is nothing to show that the respondent No. 1 was regular appointee appointed after a regular selection. Hence, he cannot, claim to be continued in service.

3. Learned counsel for the respondent submitted that the respondent No. 1 was not given a written order of termination, and this was one of the grounds given by the Tribunal for allowing the claim petition. We are of the opinion that a termination order can be oral, particularly in respect of temporary/ casual or ad hoc employees. Learned counsel for the respondent then submitted that one month's notice pay was not given. It is settled law that even if one month's notice or notice pay was not given, the termination order would not become illegal on that account.

4. For these reasons, we set aside the impugned order of the Tribunal dated 2.2.1993. The petition is allowed. No order as to costs.

5. However, we direct that the respondent No. 1 should be given one month's salary in lieu of notice of termination.