

Vinod Kumar Makhija and ors. Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Nov-07-2003

Reported in : 2004(1)AWC336; (2004)1UPLBEC87

Judge : M. Katju and ;Umeshwar Pandey, JJ.

Appeal No. : C.M.W.P. No. 26916 of 2001

Appellant : Vinod Kumar Makhija and ors.

Respondent : State of U.P. and ors.

Advocate for Def. : Vijai Singh, S.C. and ;S.C.

Advocate for Pet/Ap. : Devendra Pratap Singh and ;Ramesh Chandra Yadav, Advs.

Judgement :

ORDER

M. Katju and Umeshwar Pandey, JJ.

1. Heard learned counsel for the parties.
2. The petitioner has prayed for a writ of mandamus directing the respondents that till the regular promotion is made among vacancies of engineers in different Zila Panchayata in U. P., the ad hoc posting of the petitioners be made as engineers in

the order of their seniority.

3. Admittedly, the petitioners are only junior engineers and they have not been regularly selected and posted as engineers. Officiating or temporary appointment confers no right to the post. It is well settled in service law that while a permanent appointee has a right to the post, an officiating, temporary, casual or dally wage appointee has no right to the post.

4. Learned counsel for the petitioner submitted that certain employees who are junior engineers and are junior to the petitioner are officiating as engineers, and the petitioners are senior to them. In our opinion, this does not confer any right to the petitioners to officiate as engineers. For example, if a District Judge of a certain district is elevated as a High Court Judge or is transferred, then ordinarily the senior most Additional District Judge in that district is allowed to officiate as District Judge, even though there may be other Additional District Judges in the State who may be senior to such person. In such circumstances, those senior persons cannot claim that they should also be appointed as officiating District Judge. There may be a situation where a competent junior person is allowed to officiate on the higher post whereas an incompetent or average senior person is not allowed to officiate on the higher post. This kind of ad hoc appointment on a higher post confers no right to the post, and the person so promoted in an ad hoc or officiating capacity can be reverted without giving opportunity of hearing.

5. Thus, there is no force in the writ petition. It is accordingly dismissed.