

**Upendra Kumar Saxena and ors. Vs. State of U.P. and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/488305](http://sooperkanoon.com/488305)

**Court :** Allahabad

**Decided On :** Sep-08-2003

**Reported in :** (2004)1UPLBEC112

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

**Appeal No. :** Special Appeal No. 865 of 2003

**Appellant :** Upendra Kumar Saxena and ors.

**Respondent :** State of U.P. and ors.

**Advocate for Def. :** S.C.

**Advocate for Pet/Ap. :** Anil Srivastava and ;Gaurav Kumar Srivastava, Advs.

**Disposition :** Appeal dismissed

**Judgement :**

**M. Katju and Umeshwar Pandey, JJ.**

1. Heard learned Counsel for the appellants.

2. We have carefully perused the judgment of the learned Single Judge dated 10.6.2003 and find no infirmity in the same. The learned single Judge has discussed the matter in detail and we fully agree with the reasoning given by him. If a department, a factory or an establishment is closed down, there is no legal

principle that the employee has a right to get alternative employment. No doubt, the loss of a job of an employee causes great hardship to his family, but a writ cannot be issued on the basis of hardship. Some error of law or illegality has to be demonstrated before a writ can be issued.

3. It may be mentioned that in a writ petition the petitioner has not only to show that there is equity in his favour, but he has also to show, that there is law in his favour...Unless, both are in his favour, a writ will not be issued. The appellant cannot claim a writ merely because equity is in his favour. This is a well settled principle of exercise of writ jurisdiction. So far as the appellant is concerned, he has not been able to show any legal principle that a person who is retrenched from an establishment, factory or department has a right to get alternative employment.

4. Learned Counsel for the appellant has shown us certain directions issued by the Supreme Court in certain cases for grant of alternative employment to an employee who has lost his job on closure of the department, establishment or factory. It is well-settled that a mere direction of the Supreme Court or the High Court, without laying down any legal principle, is not a precedent, vide *Delhi Administration v. Manoharlal*, AIR 2002 SC 3088 (vide Para 5).

5. In *Indian Council of Agricultural Research v. Raja Balwant Singh College*, 2003 (1) ESC 424, a Division Bench of this Court, relying on several decisions of the Supreme Court, held that merely because in some decisions the Supreme Court directed regularization of some employees it does not amount to laying down any law and hence these decisions were not precedents.

6. The Supreme Court often issues directions without laying down any legal proposition and unless there is some principle of law laid down by the Supreme Court, the petitioner cannot claim benefit of the direction issued by the Supreme Court without laying down any legal principle. We are not aware of any legal principle that the petitioner whose service has been terminated on closure of a department, establishment or factory has a legal right to get alternative employment. The number of jobs in the country is limited and this Court should not embarrass the authorities by issuing such directions.

7. There is no force in this appeal and it is dismissed.

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