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**(1994) 03 AHC CK 0001**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No"s. 13848 of 1986 and 9913, 9999, 21255 and 22523 of 1990 and 11075 and 34562 of 1993

Adya Prasad Mishra and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

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**Date of Decision :** 24-03-1994

**Acts Referred:**

Constitution of India, 1950 — Article 14, 16, 235, 309

General (Civil) Rules, 1957 — Rule 269, 69

Subordinate Civil Courts Ministerial Establishment Rules, 1947 — Rule 10, 14, 16

**Citation :** (1994) 3 AWC 1467 : (1994) 3 UPLBEC 1670

**Hon'ble Judges :** A.S. Tripathi, J

**Bench :** Single Bench

**Advocate :** Tarun Verma and Radhey Shyam, for the Appellant; M.D. Singh, Vinod Mishra and Anil Kumar, for the Respondent

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## Judgement

A.S. Tripathi, J.—All the aforesaid writ petitions arise out of the lame matter regarding recruitment in the judgeship of Gorakhpur and they are connected. These writ petitions are taken up together and can be disposed of by a common judgment.

2. Civil Misc. Writ Petition No. 13848 of 1986 has been admitted and has been heard on merits,

3. In other writ petitions counter and rejoinder affidavits have been exchanged and they have also been taken up and heard on merits by agreement of parties under the Rules of court.

4. Civil Misc. Writ Petition No. 13848 of 1986 has been made the leading case.

5. The matter in all these writ petitions is regarding recruitment held in the judgeship of Gorakhpur for selection of Class-III and Class-IV employees.

6. In the leading writ petition No. 13848 of 1986 the Petitioners prayed that a writ of certiorari be issued quashing the order dated 11-7 1986 passed by the

District Judge, Gorakhpur. It was further prayed that a writ of mandamus be issued to the Respondents to make appointment from the list declared on 29-11-1985.

7. It was alleged by the Petitioner in this petition that a written test was held on 10th and 11th of September, 1983 for recruitment of Class III employees in the judgeship. The Petitioners qualified in the written test. They were directed to appear for personality test on 27-11-83. However, by stay order in writ petition No. 14774 of 1983 the aforesaid personality test was stayed on 25-11-1983. On 18-2-1985 the aforesaid writ petition was dismissed. Thereafter personality test was held in April, 1985. The Respondent, District Judge, prepared a merit list by notice dated 28-6-1985 which was not done in accordance with GO No. 100/S.E.-II-B-316.1964 dated 16-3-1965. A Copy of the G.O. aforesaid is Annexure No. 1 to the Writ petition. The said list could not be implemented till 29-11-1985. Thereafter fresh list in accordance with the aforesaid G.O. was prepared and published by the Respondents, a copy of the final result is Annexure No. 2 to the writ petition.

8. In accordance with this list the candidates shown at serial Nos. 1 to 17 were given appointment, "and the candidates from serial Nos. 8 onwards were kept in the waiting list. The Petitioners No. 1 to 5 were placed at serial Nos. 8 to 12 and the Petitioners No. 6 and 7 were placed at serial Nos. 15 and 16. The candidates at serial Nos. 13 and 14 got employment elsewhere and not interested in getting appointment in the judgeship. It is alleged that in view of Rules 14 and 16 of the Subordinate Civil Courts Ministerial Establishment Rules 1947 (here-in-after called the Rules) if a selected candidate gets appointment within one year of the declaration of the result, his name could not be struck off from the list afterwards. A copy of the said rule is Annexure No. 3 to the writ petition. It is further alleged that by Government Order No. 3922/Sat./Nya 12/74 Issued by the Uttar Pradesh Shashan intimated the Registrar, High Court, Allahabad that the government of Uttar Pradesh has been pleased to create eight temporary posts in Class-III cadre in the judgeship of Gorakhpur. Thereafter the Petitioner No. 5 moved an application before the Respondent for being appointed against one of the said posts. A copy of the GO is Annexure No. 4 to the writ petition. Similarly the Petitioners Nos. 3 to 6 moved another application" on 7-7-1986 for their appointment. The Petitioners claimed regular appointment against the newly created posts as their rights had subsisted since the waiting list continued. The vacancies occurred till 28-11-1986. On 11-7-1986 the application of the Petitioners was rejected by the District Judge for appointment as regular candidate. The Petitioners were appointed on ad-hoc basis. The impugned order dated 11-7-1986 appointing the Petitioners on ad-hoc basis was against the provisions of the rules and government orders and the seniority of the Petitioners could not be ignored. The Petitioners were in the waiting list of earlier examination. When the posts were created they were entitled for regular appointment. They could not be treated on ad-hoc basis. The Respondent was bound to accept the result declared on 29-11-1985. Instead of regularising the

Petitioners the Respondent had decided to hold another test on 9-9-1986 and the Respondent is going to terminated the services of the Petitioners hence, this writ petition was filed.

9. In the counter affidavit filed in this case it is alleged that the selection was held in the year 1983. Interview was conducted later on in the year 1985 and merit list was published. Regular candidates were appointed from serial Nos. 1 to 7 and rest were kept in the waiting list. Although they were appointed later on ad-hoc posts they could not claim regular appointment on the basis of that selection. They were bound to appear in the subsequent selection. No right was conferred upon the Petitioners by ad-hoc appointment. The newly created posts in the judgship were temporary in nature. The formalities regarding regular appointment on these newly created posts were to be done according to the relevant rules. The services of the Petitioners were liable to be terminated according to government order. The Petitioners were, therefore, not entitled to the relief claimed.

10. In rejoinder affidavit the Petitioners asserted that select list dated 29-11-1985 was the only list relevant for the purpose of the rights of the Petitioners and not the list dated 28-6-1985 which was just to re-adjust scheduled caste and other reserved categories.

11. In writ petition No. 9913 of 1990 the Petitioners prayed that a writ in the nature of certiorari be issued to quash advertisement dated 5-4-1990 by which the Respondent No. 2 had invited applications for fresh recruitments in Class-III. It is further prayed that the Respondents be restrained from holding fresh examination in Class III and further a writ of mandamus be Issued directing the Respondent No. 2 not to terminate the services of the Petitioners,

12. In this case the Petitioners claimed that the Petitioner No. 1 was appointed as Clerk on ad-hoc basis on 1-4-1988 and was given subsequent promotion as copyist on 8-8-1988. The Petitioner No. 2 was appointed as Clerk on 2-5-1988. Similarly other Petitioners were appointed on different dates on ad-hoc basis and they were working satisfactorily since their appointment. On 4-4-1990 the Respondent No. 2 advertised SI posts of Class III employees for fresh recruitment. In view of U.P. Regularisation of Ad Hoc Appointment (On post Outside the purview of Public Service Commission) Rules, 1979 which were enforced on 24-5-1979 the Petitioners are entitled to regularisation. The regularisation rules also conferred rights upon the Petitioner for regularization. They could not be forced to appear in the next examination. Rule 10 was inserted in the rule to provide benefit of regularisation for ad-hoc employees who were appointed before 1-10-1986. The cut of date was arbitrary. The Petitioners were entitled for regularisation the moment they had completed three years of service and their services could not be terminated.

13. A counter affidavit was filed with the allegation that the Petitioners were not entitled to the benefits of Regularisation Rules as they were not appointed before

the cut of date. It is alleged in the counter affidavit that the Petitioners were appointed on ad hoc basis till the regular selection is made and for regular selection advertisement has been issued. It was by mistake mentioned in the appointment letter that the candidates so appointed will not have to appear in the departmental examination. In fact the letter meant that they will have to appear in the test for regular selection. The Petitioners are not entitled to the benefits of regularisation rules as referred above. The benefit of regularisation has been extended by amendment in the year 1984 to the candidates who were appointed before 1-5-1993. The benefit of regularisation rules was again extended to the employees appointed before 1-10-1986 and were continuing in service. The aforesaid cut of date was not extended and the Petitioners were liable to appear in the next test.

14. In rejoinder affidavit filed on behalf of the Petitioners it has been alleged that the cut of date was fixed arbitrarily and they were entitled to be regularised in view of the recommendation of the Committee appointed for the purpose in the judgeship of Allahabad which is Annexure Rule A-1 to the rejoinder affidavit. The position of the Petitioners is also clear from the statement, Annexure No. 4, Issued by the District Judge, Gorakhpur. Further a reference was made to Annexure R.A. 5, a circular letter issued by the Registrar of Allahabad High Court.

15. In the writ petition No. 9999 of 1990 the Petitioners claimed that the Impugned order dated 4-4-1990, Annexure No. 2 to the writ petition, be quashed by a writ of certiorari. Further a prayer was made to issue a writ of mandamus directing the Respondents No. 2 not to hold examination of Class IV employees in the judgeship.

16. In this writ petition the Petitioners claimed that they were appointed in Class IV on various dates and were continuing in service in view of the U.P. Regularisation of Ad-hoc Appointments Rules, 1979 which were enforced, on 24-3-1979. The Petitioners are entitled to be regularised. It was further alleged that in their vacancies no fresh recruitment could be held by holding the examination. The cut of date in the rules which was extended till 1-10-1986 is arbitrary and does not affect the rights of the Petitioners.

17. In this petition also a counter affidavit was filed by the Respondents with the allegation that the Petitioners were not entitled for regularisation and the examination for recruitment to Class-IV could rightly be held by the Respondents. The appointment of the Petitioners was purely ad-hoc and they could not claim regularisation.

18. In writ petition No. 21255 of 1990 the Petitioners prayed that a writ in the nature of mandamus be issued directing the (State Government to amend the U.P. Regularisation of Ad Hoc Appointment (On posts Outside the Purview of Public Service Commission) Rules, 1979 and also to remove the cut of date mentioned in the same while extending these provisions. It is further prayed that a direction be issued to regularise the services of the Petitioners who have

completed more than one year service. It was further prayed that the Respondents be restrained for holding fresh examination without regularising the services of the Petitioners. Same allegations were made in this writ petition as in the earlier petitions.

19. In the counter affidavit filed In this case it was asserted that the cut of date mentioned In the Regularisation Rules referred above was not arbitrary and the same could not be extended.

20. In writ petition No. 22523 of 1990 the Petitioners have prayed to issue a direction in the nature of certiorari quashing the selection proceedings initiated on the basis of advertisement, Annexure Nos. 1 and 2 to the writ petition. It was alleged that advertisement issued is irregular, since there were not posts fallen vacant. The Petitioners were appointed and were likely to become overage and they were entitled for regularisation.

21. In the counter affidavit it was alleged that proper advertisement has been issued after calculating the vacancies and the Petitioners have no locus standi to challenged the recruitment.

22. In writ petition No. 34562 of 1993 the Petitioners have prayed that a direction be issued to the Respondents to declare the result of the examination held on 9-9-90 and to consider the appointment of the Petitioners if they are found successful in the examination.

23. This point has already been contested by the Petitioners in the earlier petitions, who have prayed that the result be not declared as the selection was made without any existence of the vacancy.

24. In the last writ petition No. 40759 of 1993 the Petitioners who are adhoc employees prayed that a writ in the nature of mandamus be issued directing the Respondents to regularise the services" of the Petitioners and further to direct the Respondents to hold the competitive test as required by the order of the High Court dated 24-12-1992, Annexure No. 6 to the writ petition. Same allegations are made in this writ petition chat the services of the Petitioners, who are ad-hoo employees be regularised and only then the appointments be made from the list prepared on the basis of examination held in the year 1990.

25. In these writ petitions two categories of dispute have arisen. In the first category the dispute is regarding" Class III employee of the judgeship appointed before 1989, appointed after 1989 till 1993 and the list of regular candidates prepared after holding test according to rules in the year 1990 which was not opened and implemented in view of the stay order passed in these writ petitions.

26. The second category of dispute is regarding of Class IV employees who are working on ad-hoc basis and list prepared by the District Judge after holding test/ interview.

27. I take up the first category Class III employees and their dispute interse

between ad-hoc appointees and the persons claimed to be selected after regular test.

28. A list of Class HI and Class IV employees working in the judgeship of Gorakhpur has been submitted by the District Judge, Gorakhpur, which is Annexure No. 4 to the rejoinder affidavit. The Petitioners also relied on the order of the District Judge, Allahabad dated 5-8-1993 regularising the ad-hoc employees after being found suitable by the Committee appointed for the purpose, which is Annexure No. R.A. 1 to the rejoinder affidavit. Further the Petitioners relied upon the report of the Committee of Lucknow judgeship, which is Annexure R.A. 2 to the rejoinder affidavit. Further Annexure R.A. 3 to the rejoinder affidavit is the order passed by the District Judge, Gorakhpur considering the case of the ad-hoc employees directing the grant of earned leave and Increments etc. to such employees as admissible under the rules. Reliance was also placed to Annexure R.A. 5 to the rejoinder affidavit, which is a circular letter Issued by the Registrar of the High Court in respect of certain categories of employees regarding regularisation of ad hoc employees under Regularisation Rules, 1979 as amended upto date. It was further directed in this letter that the employees who have been appointed before 21-5-1992 be allowed to continue subject to their appearing and passing the competitive test. It was further directed In the said letter that the persons appointed on ad hoc basis after 23-5-1992 be ceased and explanation was to be called for from the District Judge making appointment after that date under Rule 269, General Rules (Civil), Annexure no, 1 to the writ petition No. 1384 of 1986 is the list of selected candidates In the examination held in September, 1984. Annexure No. 2 to the writ petition is the revised list according to reservation etc. Annexure No. 5 to the writ petition is the creation of 307 posts of additional copyists in the civil courts of Uttar Pradesh. There is another Annexure 5 which is the administrative order passed by the then District Judge, Gorakhpur in this respect on 11-7-1987." Another letter by the Judicial Secretary addressed to the District Judges is Annexure C.A. 6 to the counter affidavit regarding creation of additional posts of copyists and regularisation of ad-hoc employees. Different orders passed in respect of different candidates in the judgeship of Gorakhpur are Annexure-11 to the writ petition No. 9999 of 1990. Most of these annexures are repeated in all the writ petitions. There is another writ petition No. 22523 of 1990 in which a prayer was made to quash the regular test to be held in view of the advertisements, Annexures Nos. 1 and I to the writ petition. The list of ad-hoc employees was also attached as Annexure No. 3 to this writ petition. Copy of the representation regarding regularisation is Annexure No. 4 to this writ petition. In the writ petition No. 34562 of 1993 different orders in respect of different ad hoc employees passed by the District Judge, Gorakhpur are attached as Annexures Nos. 1, 2, 3, 4, 5 and 6 to this writ petition. Annexure No. 7 to this writ petition Is the letter sent by the District Judge, Gomkhpur to the Registrar, High Court dated 25-7-1992 seeking permission to appoint certain persons on ad-hoc basis, which shows that ad-hoc appointments were still continuing. In the

judgeship. In writ petition No. 40759 of 1993 the Petitioners have filed some lists of ad-hoc employees as Annexure No. 1. Annexure No. 2 Is the order of the District Judge permitting certain persons to join on ad-hoc post, Annexure No. 3 is the letter sent by the District Judge, Gorakhpur to the Registrar, High Court, Allahabad for permission to make ad-hoc appointment as the work in the judgeship was suffering because the list prepared on regular test was stayed by the Hon'ble Court; Annexure No. 4 is also the letter in regard to same matter. Similarly Annexure No. 5 to the writ petition is the list of ad-hoc Class III and Class IV employees appointed. In the judgeship after April 1, 1991. Annexure No. 7 Is the representation of certain ad-hoc employees for regularisation, Annexure No. 8 to the writ petition is the report submitted by the office in that respect that they could not be regularised as they had not completed three years in the judgeship by that time. Annexure No. 9 to the writ petition is the order dated 5-10-1993 passed by the District Judge, Gorakhpur in respect of 11 ad-hoc employees who were appointed in the year 1981 directing that their cases for regularisation will be considered when they appear in the regular test.

29. The claim of different Petitioners in different writ petitions is similar that all the ad-hoc employees are entitled for regularisation in view of the Regularisation Rules, 1979 and also in view of the instructions issued by the Registrar of the High Court from time to time. In writ petition No. 9913 of 1990 nineteen Petitioners were appointed after 1-4-1988 onwards. They claimed their regularisation under the provisions of Regularisation of ad-hoc Appointments (on posts outside the purview of the Public Service Commission) Rules, 1979 as amended on 19-8-1989. They, however, prayed that advertisement issued and test held be quashed unless their services are regularised. Their prayer was also not to hold examination when the examination was already held but implementation of the result had been stayed. It was claimed in this writ petition that in the appointment letters itself it was indicated that their appointment is made on substantive posts and only they had to undergo departmental training. In writ petition No. 21255 of 1990 13 Petitioners claimed regularisation on the ground that they had put in more than two years' service. Similarly in writ petition No. 22523 of 1990 advertisement itself was challenged and different grounds were mentioned in the petition.

30. In all these writ petitions, the main question is regarding their entitlement for regularisation under the rules. On the other hand the Petitioners who claimed to have been successful in the test held according to rules have, therefore, claimed for priority in the appointment and seniority over ad-hoc employees. The candidates who appeared in the select list which was prepared after holding of the examination and the same was stayed by this Court in writ petition have claimed that their appointment be made earlier and their seniority be protected. The learned Counsel for such Petitioners referred the case of *P. Mebrotra v. State of Karnataka* 1990 FIR 60 103 (SC). Reliance was also made to the case of *N.T. Devinkelli v. Karnataka Public Service Commission* 1990 FIR 64 (SC) .

31. Reference was also made to Rule 7 of the U.P. Rules for recruitment of Ministerial Staff of Sub-Ordinate Offices in Uttar Pradesh, 1990 in which it was provided that on the result of test the head of the office shall make appointment according to the list in order of merit arranged as provided under the Rules. It was further provided in these rules that casual vacancies may be filled up by appointing the persons who have not taken the test but their further retention shall depend on their taking the test and being selected in it. In this view of the matter it was urged on behalf of the persons whose names appear in the select list that their appointment must be made in order of merit from the select list giving preference over ad-hoc appointees. Reference was also made to the provisions of the Subordinate Civil Courts Ministerial Establishment Rules, 1947 and the U.P. Rules for Recruitment of Ministerial Staff of Subordinate Offices in U.P. 1990 prescribing the mode for recruitment. It was urged that ad-hoc appointments made in between is always subject to the select list prepared after examination conducted according to rules.

32. It was further contended on behalf of the persons appearing in the select list that the ad-hoc or temporary arrangements made in case of Petitioners of the aforesaid writ petitions is contrary to the provisions of statutory rules which provides for the method for the direct recruitment in the judgeship of Gorakhpur. Therefore, in view of the law laid down by Hon''ble Supreme Court, State of Orissa v. Sukantimahopatra 1993 FLR 51 (Vol. 67), wherein it has been held that when a candidate is appointed irregularly in total disregard of the rules, services of such candidates cannot be regularised under the Rules, Therefore, it was argued that the regularisation sought by ad-hoc employees of the aforesaid writ petitions whose appointment has been made in total disregard of the rules, services of such candidates cannot be regularised under the Rules. In Director of Institute of Management Development of, U.P. v. Smt. Pushpa Srivastava 1992 FLR Vol. 65 p. 571, it has been held that appointment made temporarily on ad-hoc basis and on contract for a limited period there is no vested right created In favour of those persons to remain in service and the judgment passed by Hon''ble Court to reinstate and to regularise the services was set aside. In view of the above law laid down, the Petitioners in the aforesaid writ petition cannot seek their regularisation as their appointment was for at temporary adhoc basis and that too with a limited period and, therefore, appointment will come to an end after the regularly selected candidate is made available in accordance with the Rules.

33. The provisions of Uttar Pradesh Regularisation of Ad-hoc Appointments (on posts Outside the Purview of the Police Service Commission) Rules, 1979 as amended by the section amended in the year 1989 are not all attracted, in the case of the Petitioners of the above mentioned writ petitions in as much as by the amendment brought in the aforesaid Rules, it has been provided that the provision of these Rules shall apply to any person directly appointed on adhoc basis on or before May, 1986 and continuing in service. As such on the date of commencement of Uttar Pradesh Regularisation of Adhoc Appointments (On

Posts Outside the Purview of the Public Service Commission) Rules 1979 was amended in the year 1989. Admittedly, in the writ petition No. 9913 of 1990 the Petitioners have been appointed on adhoc basis (as Apprentice) on or after 1-4-1988 and have put in less than two years service before seeking relief of regularisation before the Hon''ble Court.

34. Similarly, the Petitioners of the writ petition No. 21255 of 1990 have been appointed on or after 1-10-1988 and have completed less than two years of service and some of them not. even have completed one year of service and have claimed regularisation under the aforesaid Regularisation Rules and reference was made to a case reported in 1985 U.P. LB EC 195.

35. As per the terms of the appointment order of the Petitioners in the writ petition No. 9913 of 1990 it is clear that the Petitioners had to undergo departmental examination. The Petitioners of writ petition No. 21253 of 1990 did not file any appointment letter alongwith the writ petition. In such a view of the matter even under the terms of the appointment letter itself the claim of the Petitioners seeking regularisation cannot be sustained in the eyes of law by any stretch of imagination.

36. There are also no Rules providing for regularisation of the adhoc employees merely on the basis of continuance on the post. The said view is based, on latest pronouncement made by Hon''ble High Court in the case of Director of Institute of Management Development U.P. v. Smt. Pushps Srivastava 1992 FLR Vol. 65 p. 571.

37. Therefore, this Court cannot directly make an order of regularisation merely on the ground of continuance by the Petitioners on the post in the judgeship of Gorakhpur in view of the law laid down by Hon''ble Supreme Court.

38. It is well settled that no government order or executive instructions issued from the Administrative side by the Hon''ble Court can override the special statutory provisions made in exercise of the powers conferred under Article 309 of the Constitution of India. In such a view of the matter, the Applicant's right to be considered for appointment cannot be denied by the claim of the adhoc, employees, of the above noted writ petitions.

39. Admittedly in all 51 vacancies were advertised by the advertisement dated 8-4-1990 for making direct recruitment against the vacancies in Class III category in the judgeship of Gorakhpur and in pursuance whereof the Applicants appeared in the selection but the same could not be published and was kept under the sealed cover in view of the pendency of the aforesaid writ petition filed by the adhoc employees claiming for their regularisation.

40. The adhoc temporary arrangements have been made in the judgeship of Gorakhpur during the period in which the selection was not held in accordance with the Statutory Rules and can at best be said to be an arrangement made to appoint the persons (as is the case of the Petitioners in the writ petition) on

ad hoc basis till the regularly selected candidates are made available. Therefore, no vested right is available in favour of the ad hoc employees of the aforesaid writ petition for their regularisation.

41. On the other hand as already mentioned above, the contention of ad-hoc employees remained on different footing as already mentioned that the aforesaid regularisation rules come to their rescue.

42. Now I proceed to examine the case laws on this point which are relevant to determine the matter in its proper perspective regarding cut of date under the Regularisation Rules and its implications in respect of ad-hoc employees appointed at different point of time. In the case of *Lala Ram Katiyar v. State of Uttar Pradesh* 1985 LB EC 433, it was held that:

Appointment to a post in Grade III of the Ministerial Staff in the Subordinate Courts is regulated by statutory rules. A regular appointment in Grade III of the Ministerial Staff is made only after selection in accordance with the procedure prescribed in the statutory rules. Ad hoc appointments are made in the interest of work when selected candidates are not available. The Government of Uttar Pradesh framed the U.P. Regularisation of Ad hoc Appointments (On Posts Outside the Purview of the Public Service Commission) Rules, 1979, providing for regularisation of ad hoc appointees on their fulfilment of the conditions prescribed therein. These 1979 Rules were amended in 1984

It was further held that:

The Regularisation Rules are not executive in nature, instead they are legislative in character having the force of law. These Rules do not regularise the services of all ad hoc appointees in a blanket manner; instead they provide for regularisation only if the ad hoc appointees fulfil the requisite qualifications prescribed in the service and their work and conduct as ad hoc appointees had been satisfactory and they are otherwise found suitable for appointment. The Regularisation Rules were framed by the government to grant benefit to those who have been working on ad hoc basis for a number of years. The object and purpose of the Rules as contained in the Government order, dated March 22, 1984 was to obviate the hardship which would be caused to the ad hoc appointees. In this connection it was stated that in a number of Government Offices regular selections could not be held and in the interest of work ad hoc appointments were made and the persons so appointed were large in number and they have been working for a considerable period of time. It would not be in public interest to remove such a large number of employees from service and direct them to appear at the selection, most of them would be disqualified as during their continuance as ad hoc appointees they crossed the age-limit prescribed for Government service. Having regard to these facts the Government with a view to grant relief to such ad hoc appointees framed the Regularisation Rules. The object as stated in the Government order has a reasonable nexus with the purpose which is sought to be achieved.

43. The Regularisation Rules were challenged on the ground that they were arbitrary in nature and were unconstitutional. On this point their Lordships of the Division Bench of the aforesaid case held that:

Articles 14 and 16 of the Constitution do not prohibit classification. Those persons who were employed on ad hoc basis in the interest of Government work constitute a separate class than those who are candidates for appointment by selection. The criteria for regularisation of ad hoc appointees is on the basis of their continuous and satisfactory service rendered by them. The two classes of persons do not form the same class and as such the contention that Articles 14 and 16 are violated is misconceived. The preferential treatment given to ad hoc appointees does not violate Articles 14 and 16 of the Constitution. Those who are not in ad hoc appointment are free to compete with those who apply for selection at the examination which may be held in future.

With these findings the Division Bench of this Court clearly held that the Regularisation Rules are valid and preferential treatment given to ad hoc appointees for regularisation was not in any way arbitrary.

44. In writ petition No. 6219 of 1993 connected with another writ petition No. 6220 of 1993 Hon'ble K.L. Sharma, J. while delivering judgment at Lucknow Bench of the Court held that:

For the aforesaid reasons, I come to the conclusion that the cut of date mentioned as 1st October, 1986 in the rules is void, and the cut of date will be the date of the commencement of the rules, i.e. 7th August, 1989, and all those ad hoc employees appointed on or before 7th August, 1989 the date of the commencement of the rules are eligible to be considered for regularisation strictly in accordance with the rules, and those ad hoc employees who are found suitable on the basis of the service record by the duly constituted selection committee under the rules are entitled to be regularised in the substantive vacancies.

45. In the case *Jacob M. Puthuparanbil v. Kerala Water Authority* 1991 SCC 28, It was held that:

The cut of date mentioned in the rule was found inconsistent with the spirit and philosophy of the Constitution. It was held that employees who are serving on the establishment for long spells and hold the requisite qualifications for the job, should be regularised under the rules.

46. In the case of *Km. Kusum Rawat v. State of Uttar Pradesh* 193 LB EC 45, this Court had considered the validity of cut of date. The Petitioner in that case was appointed as lecturer in Zoology in H.N.B. Garhwal University on ad-hoc basis for a period of six months after the cut of date June 30, 1991, After following the law declared by the Supreme Court in the case of *D.S. Nakara* the cut of date was ignored and the interim stay order was issued directing the Respondents to continue the Petitioner in service, pay her salary etc.

47. In the case of D.S. Nakara v. Union of India 1983 LIC 1, the Hon'ble Supreme Court held that:

The fundamental principle is that Art 14 forbids class legislation but permits reasonable classification for the "purpose of legislation which classification must satisfy the twin tests of classification being founded on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group and that differentia must have a rational nexus to the object sought to be achieved by the statute in question. The doctrine of classification was evolved to sustain a legislation or state action designed to help weaker sections of the society in need of succor. Legislative and executive action may accordingly be sustained if it satisfies the twin tests of reasonable classification and the rational principle correlated to the object sought to be achieved. The state, therefore, would have to affirmatively satisfy the Court that the twin tests have been satisfied. It can only be satisfied if the state establishes not only the rational principle on which classification is founded but co-relate it to the objects sought to be achieved. Where all relevant considerations are the same, persons holding identical posts may not be treated differently in the matter of their pay merely because they belong to different departments. If that cannot be done when they are in service, can that be done during their retirement? Expanding this principle, it can confidently be said that if pensioners from a class, their computation, cannot be by different formula affording unequal treatment solely on the ground that some retired earlier and some retired later.

48. Similarly in the case of Shanker Charan Tripathi v. Public Service Commission, U.P. Allahabad 1992 (1) DP LB EC 709, it has been held that no explanation for fixing the cut of date was given by the Commission. It was held that the fixing of the cut of date had no nexus with the object sought to be achieved, and the Commission had created unreasonable and arbitrary classification amongst the Ex-Servicemen who are going to be released within six months from the last date of receipt of the application and those who are going to be released after six months.

49. The cut of date was accordingly ignored.

50. Reference was also made to the case of B.P. Misra v. The Union of India through the General Manager, Northern Railway, New Delhi 1971 LA BIC 290 and the case of Retired Employees of Non-Government College Association, Nagpur. v. State of Maharashtra 1987 LAB IC 1183, in which the same view was taken that when there is no nexus with the object sought to be achieved the cut of date has to be ignored.

51. In the instant case the classification in the Regularisation Rules is between ad-hoc appointees who are working for a long spell of time and have completed more than three years and those who have been recently appointed and as such it was argued that the cut of date mentioned for classification in the two classes aforesaid was not arbitrary.

52. As pointed out earlier that in writ petition No. 6219 of 1993 brother K.L. Sharma. J delivered the Judgment at Lucknow Bench and held that the cut of date 1-10-86 in the Rules are void. However, he held that the cut of date should have been 7-8-1989.

53. At this stage it was argued on behalf of the Petitioners that in the aforesaid writ petition taking the cut of date as 7-8-89 is not reasonable and is against the nexus and the purpose for which the rules were framed. The Rules were amended twice only to accommodate the ad-hoc employees who had put in more than three years service and, therefore, it was argued that cut of date should always be mentioned in these rules that whenever an employee completes three years service he should be considered for regularisation. However, a difficulty was pointed out that extension in the cut of date has to be made by an amendment in the Rules and not by Judicial pronouncement This point 1 propose to consider later on as to whether the Judicial pronouncements could be made in respect of extension of cut of date in the case of ad-hoc appointees.

54. Reference was made to the case of The Direct Recruit Class-II Engineering Officers" Association and others Vs. State of Maharashtra and others, , in which the Hon"ble Supreme Court held that even the initial appointment was not made according to rules and the appointee, however, continues uninterruptedly till the regularisation of the service, the period of officiating service will be counted for the purposes of seniority.

55. Reference was made to the case of State of Haryana and others Vs. Piara Singh and others etc. etc., , in which it was held that:

It is the Executive again that lays down the conditions of service, of course, to a law made by the appropriate Legislature. This power to prescribe the conditions of service can be exercised either by making Rules under the proviso to Article 309 of the Constitution or (in the absence of such Rules) by Issuing Rules/ instructions in exercise of executive power. The Court comes into picture only to ensure observance of fundamental rights, statutory provisions Rules and other instructions, if any, governing the conditions of service. The main concern of the Court in such matters is to ensure the Rule of law and to see that the executive acts fairly and gives a fair deal to its employees consistent with requirements of Articles 14 and 16. It also means that the state should not exploit its employees nor should it see to take advantage of the helplessness and misery of either the unemployed persons or the employees, as the case may be. As is often said, the State must be a model employ. It is for this reasons, it is held that a person should be kept in temporary or of ad hoc status for long. Where a, temporary or ad hoc appointment is continued for long the Court presumes that there is need and warrant for a regular post and accordingly direct regularisation.

56. In the case of Rajendra Prasad v. Additional District Magistrate (Rural), Allahabad 1985 U.P. LB EC 194, it was held by a Division--Bench of this Court that adhoc appointees who completed three years should be considered for

regularisation under the Regularisation Rules.

57. Similar guiding principles were laid down in the case of *State of Orissa v. Sukanti Mohapatra* 1993 FLR 51, regarding regularisation and interse seniority.

58. Lastly it was held in the case of *S.K. Bhatia v. State of Uttar Pradesh* 1993 AWC 591, by a Division Bench of this Court that if a person is appointed on a post on ad hoc basis but continuing for two or three years has to be regularised, if eligible and his service record is satisfactory.

59. the problem of ad-hoc employees of Class HI has arisen in every judgeship from time to time. The employees who were appointed on ad-hoc basis under the provisions of Rule 269, General Rules (Civil) were considered for regularisation in different judgeship at different point of time putting some time in service and their cases were considered sympathically and were regularised in due course of time. In some cases the ad-hoc employees who had put in only 240 days of service were regularised as a matter of right. It was a policy of the High Court to regularise the ad-hoc employees in due course when they had put in quite some time in service and no regular tests were held for a considerable time, such employees were regularised. Later on the benefit was given to the employees of the aforesaid Regularisation Rules framed by the government which were also made applicable to the Civil Courts employees. The cut of date mentioned in the said Regularisation Rules was followed to some extent. Later on in the case of *Rakesh Kumar Verma and Ors. v. State* (Writ petition No. 6220 of 1993) as referred above Hon"ble K.L. Sharma J. Sitting at Lucknow Bench held that the cut of date in the rule was void and regularisation could be considered even after that date when the employee has put in certain period of service. In some cases referred above the policy has been held valid that a employee who has completed three years of service shall be considered for regularisation by appointing appropriate committee.

60. In a similar situations in different districts regularisation was considered at different point of time by the District Judges themselves and they regularised the services of such ad-hoc employees who had put in number of years in service and those who have put in more than three years were regularised.

61. In the judgeship of Allahabad in similar situation the District Judge has regularised the services of ad-hoc employees by his order dated 3-8-1993, which is Annexure R.A. 1 to the rejoinder affidavit filed in writ petition No. 21255 of 1990 at referred above. The ad-hoc employees had made representations and the District Judge was directed to consider the same. The District Judge appointed a committee for the purpose. The Committee submitted; its report, Annexure R.A. 2 in the said writ petition and the said committee recommended that the persons who were appointed on or before 7-8-89, the date of notification, for extension of the date of regularisation in the Regularisation Rules who have completed three years" service are entitled for regularisation subject to fulfilment of other qualifications and their satisfactory service record.

62. On the basis of this report the District Judge, Allahabad passed the order dated 5-8-1993 regularising the services of the employees who were appointed on or before 7-8-1989 and had completed three years of service thereafter.

63. This point was also considered and applied in the judgship of Lucknow.

64. In the judgship of Gorakhpur in question the representations were considered by the District Judge, Gorakhpur. He has passed the order dated 9-6-1992, Annexure R.A. 3 to the rejoinder affidavit filed in the said writ petition, calling for the report about ad-hoc employees and granting Increments to ad-hoc employees who had completed more than one year's service.

65. When one principle was adopted in the judgship of Allahabad applying the same test, there is no reason to deprive the benefits to employees of other judgship.

66. When the hardship of the ad-hoc employees was being pointed out from different districts to the High Court and discrimination being made by different District Judges in different districts, the matter was taken up by the High Court and a circular letter was issued by the Registrar on 24-12-1992 directing all the District Judges to retain all the ad-hoc employees who have been appointed on or before 21-5-1992. A copy of the said circular letter is Annexure R.A. 5 to the rejoinder affidavit filed in writ petition No. 9913 of 1990 as referred above.

67. The apparent purpose of the said circular letter was that new ad-hoc appointments be not made and the persons who have been appointed before 21-5-1992 be retained in service subject to their appearing at and passing the competitive test to be held in future. This circular letter had also made entitlement of the employees of Gorakhpur Judgship who were appointed on ad hoc basis before 21-5-1992 to remain in service and be considered for regularisation as the regular test was already held earlier. Such employees who were appointed on ad hoc basis before that date and could not appear in the earlier test are so entitled for consideration of regularisation as the future test to be held is uncertain in view of the writ petitions being pending and the result of the test already held; not declared.

68. It is important to note that whenever the work load in the judgship used to increase Rule 269, General Rules (Civil) empowers) the District Judge to make appointment on ad-hoc basis to cope with the work. Such employees used to be regularised in due course. The ad-hoc appointments were made in earlier times by the District Judges who are appointing authorities under the provisions of Rule 269 of the General Rules (Civil). This is a statutory rule empowering the District Judges to make appointment when ever the work load increases and regular test was not practicable within a short time. Such appointments when continued for longer period were considered for regularisation and were regularised in due time. That did not cause any hardship to any employee in this manner.

69. Rule 269 is statutory rule and, till it, remains on the statute book every

District Judge has right to appoint ad-hoc, employees when, work load increases and such appointments should be reported to the High Court. But once the aforesaid appointment is made under this Rule and the employee continues for a longer period there could be no justification for removal or casing when the work load remains the same without any reason. Simply because there is a change in the administrative set up it is highly deplorable that the persons who are already in employment although on ad-hoc basis are arbitrarily ceased and in their place other set of ad-hoc employees are replaced. It is further deplorable state of affairs that in the name of false examination and test on account of the change In the administrative set up the employees who had put in a number of years in service are put to Jeopardy and had to -run from pillar to post for their regularisation and the same will be subject to appearing in regular test, and were, rejected on the pretext of the so called examination. This has been happening in civil court? in this state, which has been creating an impression amongst the ad-hoc employed unemployed youth that on every change of administrative set up there can be a game of entry or ouster of ,such persons at the sweet will of the then present set up. In such situation ad-hoc employees have been running for regularisation and making, representations to the High Court Recently the High Court had also directed the regularisation of such employees in different judgements considering Individual cases and number of years they have put in and they have been, regularised by the order passed by the High Court. It was pointed out before me that recently in the judgement of Varanasi a number of employees have been regularised who had put in more than three years of service

70. It has been argued before me that ad-hoc appointment have been made indiscriminately and regularisation of some employees in different districts have been made arbitrarily at the sweet will of the then administrative setup and the cases of others have been ignored. It is high time that a uniform system be evolved for the proposed employees should not be subjected to arbitrary and callous treatment in the matter of regularisation. It certainly makes the mockery of the system if the person is engaged in employment for a number of years and then he is thrown out on the pretext of regular test being held when such persons become overage or ineligible for other employment. When the appointment is made on ad-hoc basis under Rule 266 General Rules (Civil) and the employee continued for a number of years It is expected that they shall be given fair treatment in the matter of regularisation and shall not be made, victim of the circumstances in the change of the administrative set up and to suffer due to jugglery of rules.

71. In such an unfortunate state of affairs the courts will not shut its eyes and certainly will not allow such type of injustice in appropriate cases.

72. Now coming back to the U.P. Rules for Recruitment of Ministerial staff of Subordinate Offices In U.P. 1950, Rule 7 of these rules contemplates that head of the office shall hold a regular test and prepare a select list and make

appointment from that list. Rule 5 provides that the test be held at least once a year regularly for such posts whenever it becomes necessary on account of the creation of the vacancies. When a regular test is not held as provided under the Rules and the employees appointed on ad-hoc basis and allowed to continue for a number of years it will be highly unjust to ignore their claim for regularisation in the name of future so-called regular test. The aforesaid rule contemplates the appointment to be made only from regular test but when an appointment is made under Rule 269 General Rules (Civil) on account of increase of the work and the employees continues the aforesaid rules are silent regarding their future and fate.

73. It has, also been, brought to the notice of the Court that whenever regular test being arranged in any judgeship on one pretext or the other some employees or, some interested persons move writ petition and regular test is stayed. This is also one of the causes when regular tests are not held in time and ad-hoc employees continue for longer period.

74. It is emphasised that once Rule 69, General Rules (Civil) remains on the statute book and the power of appointment on ad-hoc basis remains with the District Judges and the ad-hoc appointment are made under the rules the claim of such employees could not be ignored arbitrarily with the claim of others appearing in future test which is always uncertain as to when it will be held.

75. It was also argued on behalf of the Petitioners that irrespective of the Regularisation Rules framed by the Government of U.P. as aforesaid, the power of regularisation also flows from Article 235 of the Constitution and the High Court itself can make direction for regularisation of such employees who had been appointed on ad-hoc basis, and had continued in service, provided they are eligible for the post. Reliance was placed on the case reported in Chief Justice of Andhra Pradesh and Others Vs. L.V.A. Dixitulu and Others, . This proposition was defined on the ground that the word, "Court" includes, office of the court and its staff.

76. On the other hand learned Counsel for the State referred the case of Dr. (Mrs.) Sushma Sharma v. State of Rajasthan AIR 1985 SO 1367. In this case also the point of absorption of university teachers considered and It was held that:

All temporary lecturers who were appointed as such on or before 25-6-1975 and were continuing as such at the commencement of the Ordinance shall be considered by the University for screening for absorption. The expression "were continuing" is significant. This is in consonance of the object of the Act, to ensure continuity of experience and service as one of the factors for regularising the appointment of the temporary lecturers.

77. In that case also the same principle was laid down that when a person is continuously serving on the post his claim for regularisation has to be considered in preference as against the persons who are likely to be selected, In due course

in any future test or examination. However, this point was conceded that there can be no automatic regularisation of service and some order has to be passed by appropriate authority.

78. In view of the discussions made above, the following points emerge, and settled:

(i) The cut of date in Regularisation Rules as referred above, i.e. 1-10-1986 is void and the cut of date would be 7-10-1989.

(2) The ad-hoc employees who were appointed before 7-8-1981 and continuing in service even with artificial breaks are entitled to be considered for regularisation.

(3) In view of the circular letter issued by the Registrar the ad-hoc appointees appointed before 21-5-1993 who could not appear in the examination already held at are not likely to appear in any future examination within a reasonable time are also entitled to be considered for regularisation.

(4) The ad-hoc appointees who were appointed after 21-5-1992 and are continuing in service shall also remain in service on compassionate grounds and their cases in Gorakhpur Judgeship will be considered for regularisation to they appear in regular test or who continued for more than three years in service before any regular test is held.

(5) The select list prepared on the basis of regular test held on 9-9-1990 has to be opened and declared and the appointments in future shall be made from this list after regularisation of the employees who had put in more than three years of service as referred above.

79. A very important point has been raised before me by the learned Counsel for the parties that the regularisation rules amended from time to time had extended the cut of date on the basis of three years of continuous service on adhoc basis. The cases as referred above went to the extent that the persons who had put in more than two or three years of service must be considered for regularisation. On this basis it was argued that the employees who have put in more than three years service in civil courts shall be held to be entitled for consideration for regularisation in view of the fact that the regular test could not be held in time and their claim could not be treated callously in view of the law pronounced by this Court and Hon'ble Supreme Court in different cases.

80. I have given anxious thought to this important point raised before me. Reverting back to some unfortunate state of affairs that ad-hoc employees are running from pillar to post for their regularisation and their fate always hangs in balance for future test to be held with the change of administrative set up. Again considering the plight of such employees who were appointed at any time, continued for more than three years and then regular test is arranged and they were thrown out of employment simply because a pretext was made that they could not qualify in the called regular test. These state of affairs not be allowed to prevail so far as the civil courts employees are concerned.

81. It is pertinent to note that in the case of stenographers who were appointed against the existing vacancies and continued in service for more than three years, working as stenographer, on the change of administrative act up they are again subjected to so-called test. I fail to understand as to what kind of test is required in case of stenographers who have been working with diligence for more than three years and their work and conduct being found satisfactory were retained. In such cases any administrative agency if made them subject to any such test it will certainly be a farse only with a view to eliminate them from service and to accommodate others on its sweet will. This stage of affairs in the case of stenographers is certainly uncalled for, unwarranted and as argued by the learned Counsel for the Petitioners may be with ulterior motive. In my opinion the rule of regularisation is a rule of convenience based on the principles of continuous service for considerable time.

82. In view of the case laws referred above, the principles of regularisation evolved for the purpose have to be interpreted for an object sought to be achieved. The purpose of regularisation rules itself was to regularise such employees who have put in a considerable period of service and their work and conduct have been found satisfactory. In such a situation I am of the view that the principle can be extended a step further to direct that ad-hoc employees who have completed in civil courts at any place for more than three years must be considered for regularisation provided they are otherwise fit for the post and their work and conduct have been found satisfactory. This will be in consonance with the principles of regularisation and the object for which the regularisation rule was framed by the government and adopted by the High Court, it will be futile to look towards the government to further extend the so-called cut of date rather it will be in the interest of justice to hold that those ad-hoc employees who have put in three years service shall be considered for regularisation. It will be grave injustice to the employees who have served the department, for three years and then he is subjected to uncertainty of future test and then, being harassed in the jugglery of rules.

83. Therefore, I am of the firm opinion that the benefit of the regularisation policy be further extended by this judicial pronouncement that all the employees who have put in three years of service in civil courts shall be considered for regularisation subject to their eligibility for the post and their work and conduct being found satisfactory.

84. Accordingly in this case a direction has to be made that all those class III ad-hoc employees who were appointed before 7-8-1989 and are continuing in service shall be considered for regularisation as one class. It has to be further directed that the employees who have put in more than three years of service on ad-hoc basis shall also, be, considered for regularisation provided they are eligible for the post and their work and conduct is satisfactory as another class. Further a direction also be issued that the employees who were appointed before 21-5-1992 shall continue in service and shall be permitted to appear in future

test if it is held within three years of their appointment and then if they are successful they shall be regularised and if no test is held within three years of their appointment, they shall also be considered for regularisation on completion of three years service.

85. Another direction has to be issued that a committee be appointed by the District Judge, Gorakhpur for the purpose of considering the regularisation of the aforesaid employees.

86. No direction is needed in, respect of ad-hoc employees who were appointed after 21-5-1992 and have already been ceased in view of the circular letter of the High Court.

87. Now in respect of the candidates who had appeared in regular test held on 9-9-1990 and have been found successful and their fate is closed in sealed cover have to be taken up. The regular candidates who had appeared in the examination and found successful and whose names find place in the list shall get Reference over the persons who had not completed three years continuous service before the holding of examination. Now the list has to be opened and the appointments have to be made from the list and they shall be placed just below the persons who shall be regularised being appointed before the cut of date 7-8-1989 and have completed three years continuous service. The other categories of employees as mentioned above shall be placed below them. This principle for seniority has to be evolved on the basis that the persons who were appointed before 7-8-1989 and benefit of regularisation rules were first given to them and their seniority will relate back to their continuous appointment. In the matter of next class of ad-hoc employees who were appointed after that date and had not completed three years on the date of examination, their regularisation could not be considered before that date and, therefore, they have to be placed below the regularly selected candidates to be appointed from this list.

88. Now I proceed, to examine the matter of Class-IV employees as put forward in writ petition No. 9999 of 1990 (Ishwar Chandra and 6 others v. State of U.P. and Anr. In this writ petition the Petitioners prayed that the Respondents be restrained from terminating their services who were working as Class IV employees in the judgeship of Gorakhpur. They also prayed that future selection of class IV employees by regular test in view of the advertisement dated 4-4-1990 be quashed.

89. The Petitioner also prayed that they have been working for quite some time in the judgeship in Class-IV against regular vacancies and their services have been regularized. The Petitioners also raised some point like regularisation of service and the out of date. All the Petitioners have completed more than, three years of service in the judgeship.

90. In the counted affidavit it was simply alleged that they were appointed on ad-hoc basis and were not entitled for regularisation. It is further alleged that the

Petitioner No. 7, Rakesh Kumar Kanaujia was appointed for some time and later on he was ceased to act, therefore, there is break in his service.

91. From perusal of the papers it appears that in respect of the Petitioner No. 7 there was only an artificial break and also he is continuing in service for more than three years.

92. Therefore, in view of the discussions made above, similar principles apply also in case of Class IV employees when the seven Petitioners have completed more than three years and they are entitled for regularisation.

93. However, the District judge, Gorakhpur has also held a regular test of class IV employees as well and has prepared a select list, if any. It will be in the interest of justice that after regularisation of the Petitioners the appointments be made from the regular list, if any, in future vacancies and the list must remain in operation till it is exhausted, so the matter of Class-IV employees can easily be resolved in this way.

94. Now reverting back to the matter of class III employees a select list has already been prepared by the District Judge after holding regular test. This list is kept in sealed cover. The candidates who have been selected in this list are entitled to regular appointment in order of merit.

95. As held earlier the appointment from the regular list shall be made according to merit. The list which has been kept in sealed cover is now opened and signed in the court and photostat copy of the same be kept record. The original list shall be sent to the District Judge, Gorakhpur alongwith a copy of this judgment to comply with the directions given by this Court. This list shall remain in operation in view of the confusion prevailing for number of years till it is exhausted.

96. From the facts and circumstances of the matter as discussed above, it comes out that a number of employees were engaged on ad-hoc basis at different point of time in the judgeship of Gorakhpur. As pointed out above, their fate has been hanging in balance for a number of years. Now to resolve the controversy for ever it is expedient in the interest of justice that looking to the plight of these employees and In view of the case lairs discussed above, the employees who have put in more than three years must be regularised. In respect of the remaining ad-hoc employees who were appointed before 21-5-1992, their cases be also considered for regularisation whenever they complete three years and their services be retained. The employees appearing in the select list shall also be appointed according to merit in the existing vacancies and the list shall remain in operation till it is exhausted.

97. In spite of lot of confusion being created in respect of different categories of employees the matter can be finally resolved by giving suitable directions as mentioned above.

98. Therefore, it is hereby directed by a writ of mandamus as follows:

(1) The ad-hoc employees who were appointed baton 7-8-949 and continued is service even with artificial breaks shall regularised provided they are found eligible for the post and their work and conduct found satisfactory ft committee to be appointed by the District Judge, Gorakhpui;

(2) The ad-hoc appointees who were appointed before 21-5-1992 shall also be considered for regularisation by the same committee, the moment they complete three year of service;

(3) The ad-hoc appointees who were appointed after 21-5-1992 and if continuing in service may also be retained and their regularisation nay be considered, if they continued for more than three years before any regular that held in the meantime. If a regular test is, held in the meantime they shall appear in the teat and that fate will depend anon the result of that test.

(4) The select list prepared on the basis of regular test held on 9-9-1990 is declared and a copy of the same is attached with tide judgment. The appointment to the existing vacancies shall be made from this list in order of merit and this list shall remain operation till it is exhausted.

(5) The seniority of the persons who will be appointed from the regularlist which attached with the judgment has to be maintained and they shall be placed just below the persons who were appointed before 7-8-1989 and are continuing in service. The seniority of, the remaining ad-hoc employees who if will be regularised in due course shall be below the persons appointed from the regular list as mentioned, above.

(6) The District Judge, Gorakhpur shall appoint a Committee of the Judicial Officers for the purpose as aforesaid with that examine the matter and submit its report within a month of its appointment and the District judge, GorakKpur shall pass the appropriate order thereafter in the light of the directions made above.

(7) The ad-hoc employees, working in Class-IV, who are Petitioner in the writ petition No. 9999 of 1990 shall be regularised. The remaining appointment in Class IV shall be made" from the select list prepared by the District judge, Gorakhpur till same is exhausted.

99. All the aforesaid writ petitions are disposed of finally in view of the directions made above. No order is made as to costs.