
(2000) 11 J&K CK 0017
In the Jammu And Kashmir High Court
Case No : S.W.P. No. 164 of 1997

Savita Rani

APPELLANT

Vs

State of Jammu and Kashmir and Others

RESPONDENT

Date of Decision : 10-11-2000

Acts Referred:

Citation : (2002) 1 LLJ 453

Hon'ble Judges : R.C. Gandhi, J

Bench : Single Bench

Advocate : M. Koul, for the Respondent

Final Decision : Dismissed

Judgement

R.C. Gandhi, J.—The petitioner has been appointed as Junior Assistant for a period of 60 days against the post of Junior Stenographer by

the District Development Commissioner, Rajouri, vide Order No. PS/94-95/4159-61 dated September 15, 1994. This arrangement has been

continued vide orders dated November 17, 1994, May 18, 1995 and August 16, 1995 for a period of 89 days each or till the incumbent is posted

by the competent Authority against the post of Junior Scale Stenographer.

2. The respondents have filed the objections stating therein that the appointment of the petitioner for a period of 89 days or till the incumbent is

posted by the competent authority was ad hoc appointment which does not vest any right in the petitioner to seek regularisation. The petitioner has

not attended the office after February 4, 1997. The petitioner after February 4, 1997 neither was holding any post nor any order for extension of

ad hoc period was passed. An ad hocce (sic) has no right to hold the office after the expiry of the period of ad hoc appointment. The appointment

of the petitioner as Junior Assistant is admittedly without any post. Appointment without post is no appointment. It is an abuse of power as

pronounced by the Supreme Court in Himachal Road Transport Corporation Vs. Dinesh Kumar, holding at p. 762 of LLJ:

We are of the view that the Himachal Pradesh Administrative Tribunal acted illegally and without jurisdiction in passing the orders dated March

27, 1995 and March 6, 1995 and in directing that the respondents be appointed in the regular clerical posts forthwith. In the absence of a vacancy

it is not open to the Corporation to appoint a person to any post. It will be a gross abuse of the powers of a Public Authority to appoint persons

when vacancies are not available. If persons are so appointed and paid salaries, it will be a mere misuse of public funds, which is totally

unauthorised"".

3. The appointment of the petitioner is illegal, without jurisdiction and sheer abuse of power.

4. The petitioner, thus, is not found entitled to the relief of regularisation of his service as Junior Assistant against the post of Junior Scale

Stenographer. The petition being misconceived is dismissed.