

CASE NO.:
Appeal (civil) 2320 of 2002

PETITIONER:
REENA PANDEY

RESPONDENT:
STATE OF U.P. & ORS

DATE OF JUDGMENT: 22/04/2008

BENCH:
H.K. SEMA & MARKANDEY KATJU

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO.2320 OF 2002
WITH
CIVIL APPEAL NO. 2323 OF 2002

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The appellant was appointed as a Junior Clerk. By an order dated 13.07.1989 she was promoted on officiating basis to the post of Stenographer. By the impugned order dated 28.04.1990 the officiating promotion of Stenographer has been cancelled and she was reverted to the post of Junior Clerk. Aggrieved thereby, the appellant approached the Tribunal.

The Tribunal quashing the order of reversion, in our view, erroneously, and directed the reinstatement of the appellant with back wages.

Aggrieved thereby, the State preferred a writ petition before the Division Bench of the High Court which was partly allowed by the High Court, holding that while the respondent (appellant herein) would be reinstated she would not be entitled to back wages. The High Court further directed the State to hold a departmental inquiry. Aggrieved by the aforesaid observation of the High Court the appellant has filed this appeal by special leave.

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By now, it is a well settled principle of law that a person holding a post on officiating or temporary basis has no right to the said post vide State of U.P. v. Kaushal Kishore (1991) 1 SCC 691. Hence he can be reverted at any time without issuing a show cause notice or holding an enquiry. The Tribunal, therefore, fell in error in upsetting the order of reversion of the appellant to the post of Junior Clerk which post she was holding substantively. Also, the High Court's order directing a departmental enquiry was totally misconceived. There is no need for holding such an enquiry while rejecting a person holding a post on an officiating basis. An enquiry would only be necessary if he was holding the post on a permanent capacity.

We see no merit in this appeal and same is accordingly dismissed.

CIVIL APPEAL NO. 2323 OF 2002

In view of the observation made in C.A.No.2320 of 2002 this appeal is allowed. The order of Tribunal and the High Court for reinstatement is accordingly set aside.