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R.S. PANDEY

v.

STATE OF U.P. AND ORS.

SEPTEMBER 27, 1995

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[S.C. AGRAWAL AND B.P. JEEVAN REDDY, JJ.]

*Service Law :*

C

*Registration Clerk—Appointment on daily wages—Subsequently appointed as Peon on adhoc basis—Termination of service—Writ—Challenge—Writ connected with other writs filed by Clerks on daily wages—Disposal—Held not justified—Matter remanded to High Court for reconsideration.*

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The appellant initially appointed as Registration Clerk on daily wages in the office of District Registrar, Allahabad was subsequently appointed as Peon on *ad hoc* basis. In spite of recommendation of the Inspector General of Registration to extend the appellant's service period the appointment of appellant was discontinued. His petition challenging termination was dismissed by the High Court along with other writ petitions filed by the Registration Clerks appointed on daily wages. Hence this

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appeal.

Allowing the appeal, this Court

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HELD : Since the writ petition filed by the appellant related to continuance of his appointment on the post of Peon and not on the post of Registration Clerks and the appellant was holding the post of Peon and not the post of Registration Clerk, his writ petition could not be linked with the writ petitions and special appeals of the Registration Clerks employed on daily wage basis. The order of the High Court dismissing the writ petition of the appellant is, therefore, set aside. The said writ petition

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is restored and it is remanded to the High Court for consideration on merits. [115-G-H, 116-A]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9134 of 1995.

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From the Judgment and Order dated 8.2.95 of the Allahabad High

Court in C.M.W.P. No. 8351 of 1991.

Mrs. V.D. Khanna for the Appellant.

R.B. Misra for the Respondents.

The Judgment of the Court was delivered by

S.C. AGRAWAL, J. Leave granted.

The appellant was appointed as Registration Clerk on daily wage basis on September 18, 1986 in the office of District Registrar, Allahabad district, Uttar Pradesh. He had worked as Registration Clerk for various periods from time to time from September 18, 1986 till July 1, 1990. On June 30, 1988 he applied for appointment on the post of Peon which had fallen vacant on retirement of Inamul Haque and on July 2, 1990 he was appointed on the said post of Peon on the pay scale of Rs. 750-940. The appellant made a representation on February 4, 1991 for regularisation of his service and the said representation was forwarded by the District Registrar to the Inspector General of Registration on February 21, 1991 wherein the District Registrar had recommended that the service period of the appellant may be extended. In spite of the said recommendation the appointment of the appellant was discontinued after February 28, 1991. The appellant filed a Writ petition which has been dismissed by the High Court alongwith other writ petitions by common judgment dated February 8, 1995.

The grievance of the appellant is that his case was wrongly connected with other matters which related to Registration Clerks on daily wage basis while the case of the appellant related to his continuation on the post of Peon on which post he was appointed on *ad hoc* basis by order dated July 2, 1990. We find merit in the said contention of the appellant. Since the writ petition filed by the appellant related to continuance of his appointment on the post of Peon and not on the post of Registration Clerks and the appellant was holding the post of Peon and not the post of Registration Clerks, his writ petition could not be linked with the writ petitions and special appeals of the Registration Clerks employed on daily wage basis. The order of the High Court dismissing the writ petition of the appellant cannot, therefore, be upheld.

The appeal is accordingly allowed and the judgment of the High

- A Court dated February 8, 1995 in so far as it relates to dismissal of the writ petition No. 8351 of 1991 filed by the appellant, is set aside and the said writ petition is restored and it is remanded to the High Court for consideration on merits. No order as to costs.

T.N.A.

Appeal allowed.