

SUPREME COURT OF INDIA

Shri Maheshwari Senior Higher Secondary School

Vs.

Bhikha Ram Sharma

(K Ramaswamy and G Pattanaik JJ.)

12.02.1996

ORDER

1. Leave granted.

2. This appeal by special leave arises from the order of the Rajasthan High Court made in D.B. Special Appeal (Writ) No. 492/95. The short question is: whether the respondent can be permitted to continue in a post that stands abolished? It is not in dispute that the respondent was appointed as Steno-Typist on ad hoc basis w.e.f. July 15, 1992. While he was continuing, the Management had passed a RE solution on May 21, 1994 stating that there was no necessity to continue the ad hoc post of Steno-typist. Consequently, the post stood abolished. Thereafter, the impugned order was passed on May 31, 1994 terminating the service. When the appellants had proceeded to the Tribunal and then to the High Court, the High Court came to the conclusion that termination is not according to Rules and directed to conduct an enquiry according to Rules and to take a decision. The approach adopted by the High Court is wholly erroneous. It is settled law that on abolition of

the post, the existing holder of the post ceases to continue from the date of abolition of the post. Since the termination of the service of the respondent is only due to abolition of the post, the question of conducting the enquiry under Rule does not arise.

3. The appeal is accordingly allowed. No costs.

