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C.A.No. 4477-4478 OF 1999
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~ ITEM NO106 COURT NO4 SECTION XVII

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.4477-4478/1999

Binod K. Gupta & Ors. .. Appellant (s)
Petitioner(s)

Vs.

Ram Ashray Mahto & Ors. .. Respondent(s)

DATE :1.2.2001 : This/These matter (s) was/were
called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE S.N. VARIAVA

For Appellant (s) : Mr. P.S. Mishra, Sr. Adv.
Mr. Manu Shankar Mishra, Adv.
Mr. T.Swarupa Reddy, Adv.
Mr. Vishnu Sharma, Adv.
Mr. Upendra Mishra, Adv.
Mr. Himanshu Shekhar, Adv.

For Respondent (s) : Mr. K.N. Rai, Adv.(Not present)

Mr. Ranjit Kumar, Sr. Adv.
Mr. Rudreshwar Singh, Adv.
Mr.Tapish Singh, Adv.
Mr. Shishir Pinaki, adv.
Mr. R.P. Wadhvani, Adv.

Mr. Uma Nath Singh, Adv.
Mr. Prakash Jha, Adv.

Mr. B.B. Singh, Adv. (Not present)

UPON hearing counsel the Court made the following

O R D E R

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The appeals are allowed in terms of the signed
order.

.SP1

(Meenu Sethi) (R.K. Kumar)
Court Master Court Master
Signed order is placed on the file

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Binod Kumar Gupta & Ors. .. Appellants

Vs.

Ram Ashray Mahto and Ors. .. Respondents

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Two writ petitions had been filed before the High Court challenging the appointments of the appellants before us as IVth Grade Employees. The High Court did not advert to the various contentions raised in the writ petitions inasmuch as in its view the matter was covered by a decision in Md. Saghir and Ors. Vs. The State of Bihar & Ors.- 1994(2) PLJR 427 and Md. Sohrab and Ors. Vs. The High Court of Judicature at Patna and Ors. in CWJC No.522 of 1991 disposed of on 12th July, 1995 and proceeded to say that in these decisions the Rules 73 to 77 of the Civil Court Rules had been held to be invalid and, therefore, impugned orders of appointment of the appellants are liable to be quashed and did so. This order is in appeal before us.

On behalf of the appellants it is contended that even de-hors the said rules their appointments are valid while the contention of the contesting respondents is that even without reference to the said Rules appointments of appellants are invalid and that there is no challenge to the said rules in
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the petitions. In the circumstances, the High Court ought to have examined the contentions putforth in the petitions on the respective stands taken by the appellants/respondents in the course of the proceedings before it.

We find force in the contentions made on behalf of appellants and contesting respondents that the High Court has not examined their contentions at all. Therefore, we set aside the order made by the High Court and remit the matters for fresh consideration in accordance with law and in the light of what we have stated above. We have not adverted to or relying on any of the documents that have been filed in these proceedings to reach this conclusion. All contentions are left open to be considered by the High Court. Status-quo as to appointments of appellants shall be maintained until final disposal of the matters by the High Court. The appeals are allowed accordingly.

.SP1

.....J.
[S. RAJENDRA BABU]

.....J.
[S.N. VARIAVA]

New Delhi.
February 01, 2001.@@
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