

B.
SLP(C)No. 11211 OF 2001
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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 2512 of 2002@@
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arising out of
Special Leave Petition (C) No. 11211 of 2001@@
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State of U.P. & Anr. ...Appellant (s)

Versus

Mithlesh Kumari Sharma ...Respondent(s)

O R D E R~@@
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Leave granted.

By the impugned order the High Court has directed that the respondent will be entitled to the salary of the Principal of the Medical College, Kanpur. The State of U.P. assails the aforesaid order, inter alia, on the ground that the appointment of the respondent as Principal was not a regular appointment and she was merely asked to discharge the duties of the Principal while she was continuing as Professor of Pharmacology. In support of this contention, reliance has been placed on rule 49 of the Uttar Pradesh Fundamental Rules.

Having examined the aforesaid provisions of the Fundamental Rules, we have no manner of doubt that when the Government makes a short term appointment for a very short period, the appointee may not claim the salary for the post in respect of which he / she is discharging the duties. But, in the case in hand, the respondent was appointed as the Principal in addition to her duties as the Professor of Pharmacology way-back on 7.8.1996 and is still continuing as such.

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In such circumstances, we see no justification to deny her the right to get the salary of the Principal so long as she is continuing as the Principal and discharging the duties as such. It is true, in the letter of appointment it was categorically pointed out that she would not be entitled to claim any additional remuneration, on the supposition that she would be allowed to remain in charge only for a short period. But since the Government has continued her for this length of time and she is discharging the arduous duties of the Principal, in addition to the duties of Professor of Pharmacology, we are of the considered opinion that she would be entitled to draw the salary of the Principal and, therefore, we see no infirmity with the impugned direction of the High Court requiring our interference. Needless to mention, the appointment of the respondent as Principal and the nature of appointment has not been considered by the High Court.

This appeal accordingly stands disposed of. However,

there will be no order as to costs.

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(G.B. PATTANAIAK)@@
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New Delhi;
April 08, 2002.

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(BRIJESH KUMAR)@@
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.PL65
ITEM No.37

Court No. 3

SECTION XI
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.11211/2001

(From the judgement and order dated 31/03/2000 in CMWP 3202/2000
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

STATE OF U.P. & ANR.

Petitioner (s)

VERSUS

MITHLESH KUMARI SHARMA

Respondent (s)

(With prayer for interim relief)
(With Appln(s). for c/delay in filing SLP and exemption from filing
O.T.)

Date : 08/04/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. Yogeshwar Prasad, Sr. Adv.
Mr. Ashok K. Srivastava, Adv.

For Respondent (s) Mr. Vishwajit Singh, Adv.
Mr. Tripurari Ray, Adv.
Mr. Ravi Kumar Verma, Mr. Ritesh Agrawal,
Advs.

UPON hearing counsel the Court made the following
O R D E R

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Delay condoned. Exemption from filing O.T. allowed.
Heard the learned counsel for the parties for about 20

minutes.

Leave granted.

The appeal stands disposed of in terms of the signed order.

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(J.S. Rawat)
Court Master

(Suneet Bala Sharma)
Court Master

(Signed order is placed on the file)