

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(s). 3037 OF 2005

STATE OF U.P. & ANR. Appellant (s)

VERSUS

BRAHAMA SHANKER TRIPATHI Respondent(s)

(With appln(s) for c/delay in refiling SLP and office report)

Date: 08/12/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY  
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Appellant(s) Mr. R.K. Gupta, Adv.  
Mr. Rajeev K. Dubey, Adv.  
Mr. Kamlendra Mishra, Adv.

For Respondent(s) Mr. Bhanwar Pal Singh Jadav, Adv.  
Ms. Shipra Shukla, Adv.  
Mr. R.D. Upadhyay, Adv.  
Dr. Rajeev Sharma, Adv.

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

The Appeal is dismissed without any order as to  
costs in terms of the signed order.

(DEEPAK MANSUKHANI)  
Court Master  
(The signed order is placed on the file)  
IN THE SUPREME COURT OF INDIA

(RENUKA SADANA)  
Court Master

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 3037 OF 2005

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O R D E R

The High Court by the impugned Judgment directed that the respondent's service from 16-2-1973 to 4-5-1981 to be added to his total length of service for the purpose of seniority and his position in seniority to be fixed accordingly. The High Court was mainly impressed by the fact that the respondent herein was appointed in ad-hoc capacity in accordance with rule 5 of UP Subordinate Agricultural Services Rules, 1937 after selection against the post which was advertised.

The case of the appellant State of UP is that the said post was within the purview of the U.P. Public Service Commission in respect of which the State authorities could not have issued any advertisement and no selection thereof could have taken place for the said post ignoring the Public Service Commission.

The respondent's selection against the said post was never in dispute. The only dispute raised was with regard to as to whether the service rendered by him in ad-hoc capacity was required to be counted to the credit of his total service? The High Court has taken the view that the period during which the respondent served in ad-hoc capacity is required to be added to his total service for his selection was in accordance with rules and not of any backdoor Entry.

The High Court on the facts taken a plausible view and, therefore, we are not inclined to interfere in the matter in exercise of our jurisdiction under Article 136 of the Constitution of India at this stage after almost about 9 years of the Judgment of the High Court. However, we make it clear that the impugned judgment shall not be treated as precedent for any other cases. The relief granted by the High Court is confined to the respondent alone.

The appeal is accordingly dismissed without any order as to costs. It is needless to observe that the questions of law, if

any, are left open for consideration in an appropriate case.

.....J.  
(B. Sudershan Reddy)

.....J.  
(Surinder Singh Nijjar)

New Delhi  
December 08, 2010.