

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 8033 OF 2001

STATE OF U.P. AND ORS.

Appellant (s)

VERSUS

DILSHAD ALI SIDDIQUI(DEAD) BY LRS.

Respondent(s)

(With office report)

Date: 06/12/2007 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR
HON'BLE MR. JUSTICE MARKANDEY KATJU

For Appellant(s)

Ms. Niranjana Singh,Adv.
Mr. Abhishek Chaudhary, Adv.

For Respondent(s)

Mr. Asim Chandra, Adv.
Mr. Shakil Ahmed Syed,Adv.

UPON hearing counsel the Court made the following
ORDER

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

(Sukhbir Paul Kaur)
Court Master

(Vijay Dhawan)
Court Master

(Signed Order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8033 OF 2001

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Appellant(s)

Versus

DILSHAD ALI SIDDIQUI (DEAD) BY LRS.

Respondent(s)

ORDER

We have heard learned counsel for the parties.

This appeal by special leave is directed against the
impugned judgment and order dated 31st August, 1999 in Writ
Petition No.8059 of 1992 passed by the Division Bench of the
Allahabad High Court whereby the High Court had set aside the

termination order of the Medical Officer (Homeopathy).

The respondent (now deceased) was appointed as a Medical Officer (Homeopathy) at a fixed rate of Rs.20/- per day on 10.11.1989. Thereafter his services were terminated by the Order dated 30th November, 1992. The order of termination was challenged by the respondent before the Division Bench and accordingly, the interim order was passed by the High Court to pay the emoluments at the rate of Rs.60/- per day. Finally the Writ Petition was allowed by the Division Bench and the Order dated 30th November, 1992 was set aside by the order of the Division Bench dated 31st August, 1999.

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Aggrieved against this order, the Special Leave Petition was filed before this Court and the leave was granted. This Court passed an interim order on 23rd November, 2001 staying the operation of the impugned judgment. Now, it is submitted by the learned counsel for the respondent that the respondent has already expired on 15th November, 1999. Since the incumbent has already expired, no useful purpose will be served by prosecuting the matter any further.

In the circumstances, we are of the opinion that in fact the initial appointment was illegal because the post of the Medical Officer is within the purview of the Public Service Commission. Therefore, the appointment for a fixed term was not proper. Be that as it may, he has already expired. Therefore, no useful purpose will be served by prosecuting the matter any further. However, we cannot sustain the impugned judgment and order. The same is set aside. However, the amount already drawn by the respondent shall not be recovered.

The appeal is accordingly, disposed of.

.....J.
(A.K.MATHUR)

.....J.
(MARKANDEY KATJU)

New Delhi,
December 6, 2007.