

A SH. MAHESHWARI SENIOR HIGHER SECONDARY
SCHOOL AND ANR.

v.

BHIKHA RAM SHARMA AND ORS.

B FEBRUARY 12, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Service Law :

C *Appointment on ad hoc basis—Abolition of the post—Subsequent termination of service—Tribunal and High Court holding termination not in accordance with Rules—Held, on abolition of post, holder of post ceases to continue from date of abolition of post—Hence termination valid—Question of conducting enquiry under Rules does not arise.*

D CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3645 of 1996.

From the Judgment and Order dated 29.8.95 of the Rajasthan High Court in D.B.C.S.A. (Writ) No. 482 of 1995.

E M.C. Bhandare, Vipin Gogia, Sushil K. Jain and A.P. Damija for the Appellants.

Rajesh Srivastava, Ujjwal Banerjee, H.K. Puri and S.P. Lenka, for the Respondents.

F The following Order of the Court was delivered :

Leave granted.

G 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 Resolution 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 Rules does not arise.

The appeal is accordingly allowed. No costs.

G.N.

Appeal allowed.