

Shri Ram Deo is junior to the applicant and is not regular incumbent like the petitioner. The respondent No.1 is the appointing and punishing authority of the applicant. His work has been satisfactory and every superior officer was satisfied with his work. The Divisional Medical Officer, respondent No.1 reverted the applicant without any fault of his to the post of Mali and appointed a substitute Shri Suresh Chand Shukla as Hospital Attendant in place of him whereas the applicant is senior to Suresh Chand Shukla and the applicant has been appointed against a clear vacancy while the Suresh Chand Shukla was a Casual Labour and he had not been appointed on a regular post. Besides there are found clear vacancies of the Hospital Attendant which are being retained by S/Shri Ajit, Shmim, Ajai and Ram Deo. The applicant is senior to all these persons. Shri Ram Deo was appointed alongwith him and his services unlike the applicant were liable to be terminated at any time but he has been retained when he is junior to him.

2. In the Counter Affidavit, it has been stated that the order passed by the Divisional Medical Officer was not in order as he was not competent authority and that is why the same was modified vide order dated 31.12.82 reverting the applicant to the post of Mali and his appointment was made without approval. The position ~~is~~ thus is that the junior person is given the higher post while the applicant being the senior has been reverted to the post of Mali. No legal or factual position has been placed regarding the continuance of service of Shri Ram Deo. The applicant who has been in service since long and from all points of view he is

senior to Suresh Chand Shukla and he has also attained the temporary status and has been appointed against a clear vacancy. The reversion order of the applicant is arbitrary and violative of Article 14 of the Constitution of India and is not supported by any law. It was the internal matter of the authority and the applicant was allowed to continue and he got the salary for the same which could not have been given. If there would have been any objection by the superior officer the applicant should not have been paid the salary. Accordingly, the application is allowed and dated 18.1.83 the reversion order of the applicant is quashed and the applicant will continue to hold the said post unless he is not reverted in accordance with law.

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Member (A)

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Vice Chairman

Dated the 5 July, 1991.

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