
(2018) 03 UK CK 0039

In the Uttarakhand High Court

Case No : Special Appeal No. 1057, 1059 of 2017

ALL SAINTS COLLEGE

APPELLANT

Vs

REGIONAL PROVIDENT FUND COMMISSIONER U.P AND
ANOTHER

RESPONDENT

Date of Decision : 14-03-2018

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Allahabad High Court Rules, 1952 — Rule 5

Citation : (2018) 03 UK CK 0039

Hon'ble Judges : SUDHANSHU DHULIA, J, LOK PAL SINGH, J

Bench : Division Bench

Advocate : Mohit Maulekhi, D.S. Patni

Final Decision : Dismissed

Judgement

1) Both these appeals are preferred against the judgment and order dated 02.11.2017, passed by learned Single Judge, in Writ Petition no. 1828 (M/S)

of 2012 and Writ Petition no. 1823 (M/S) of 2010, whereby the said Court has dismissed the writ petitions filed by the writ petitioners (appellants

herein) and affirmed the orders passed by the Employees' Provident Fund Appellate Tribunal both dated 03.08.2010.

2) The appellants are aggrieved by the dismissal of their writ petitions and have preferred these intra-court appeals.

3) An appeal against an order passed by learned Single Judge is provided in Part II Chapter IX of the Allahabad High Court Rules, 1952 (as applicable

to this Court). Chapter VIII Rule 5 of the said Rules is with regard to the special appeal. Rule 5 of Chapter VIII is excerpted here-in-below for

convenience:

5. Special appeal. "An appeal shall lie to the Court from a judgment (not being a judgment passed in the exercise of appellate jurisdiction) in

respect of a decree or order made by a Court subject to the superintendence of the Court and not being an order made in the exercise of revisional

jurisdiction or in the exercise of its power of superintendence or in the exercise of criminal jurisdiction (or in the exercise of jurisdiction conferred by

Article 226 or Article 227 of the Constitution in respect of any judgment, order or award" (a) of a tribunal, Court or statutory arbitrator made or

purported to be made in the exercise or purported exercise of jurisdiction under any Uttar Pradesh Act or under any Central Act, with respect to any

of the matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution, or (b) of the Government or any

Officer or authority, made or purported to be made in the exercise of purported exercise of appellate or revisional jurisdiction under any such Act of

one Judge.] [emphasis supplied]

4) From the perusal of Rule 5, it is evidently clear that no special appeal shall lie against an order passed by the High Court exercising its jurisdiction

under Article 226 or 227 of the Constitution of India in respect of any judgment, order or award passed by a tribunal, Court or statutory arbitrator

made or purported to be made in the exercise or purported exercise of jurisdiction under any Uttar Pradesh Act or under any Central Act, with

respect to any of the matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution.

5) Both the writ petitions were filed by the writ petitioners (appellants herein) before the learned Single Judge against the judgments and orders passed

by Employees' Provident Fund Appellate Tribunal. In view of the provisions contained in the Rules of the Court, 1952, enumerated above,

special appeals against the same are not maintainable before this Court.

6) Learned counsel for the appellants failed to convince us as to the maintainability of these special appeals. Since, a special appeal against the

judgment and order passed by learned Single Judge is not maintainable, both these special appeals are hereby dismissed in limine as not

maintainable. Parties shall bear their own cost.

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