
(2010) 02 AHC CK 0014

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 7450 of 2010

Chandra Mauli Pandey

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 11-02-2010

Acts Referred:

Administrative Tribunals Act, 1985 — Section 20

Citation : (2010) 125 FLR 291

Hon'ble Judges : S.P. Mehrotra, J;K.N. Pandey, J

Bench : Division Bench

Advocate : R.K. Upadhyaya, for the Appellant;

Final Decision : Dismissed

Judgement

S.P. Mehrotra and K.N. Pandey, JJ.—It appears that the petitioner while posted as Gramin Dak Seva Vitrak/Vahak, Branch Post Office Samaspur (Mahason), District Basti, was put off duly by the order dated 15.12.2009 (Annexure 16 to the writ petition) issued by respondent No. 3 under Rule 12 of the Department of Posts, Gramin Dak Sevaks (Conduct and Employment) Rules; 2001 on the ground that the disciplinary proceedings under Rule 10 of the said Rules was contemplated against the petitioner.

2. The petitioner filed an appeal under Rule 13 of the aforesaid Rules. The said appeal is still pending before respondent No. 2.

3. In the meantime, it appears that the petitioner filed Original Application being Original Application No. 91 of 2010 before the Central Administrative; Tribunal (in short "the Tribunal").

4. By the impugned order dated 22.1.2010 (Annexure-28 to the writ petition), the Tribunal has dismissed the aforesaid Original Application filed by the petitioner on the ground that the petitioner is still pursuing the alternative remedy of statutory appeal, and thus, has not exhausted the said remedy.

Relevant portion of the order of the Tribunal is reproduced below:

4. The applicant has admittedly not exhausted remedy of statutory appeal OA is not maintainable in law since the applicant is still pursuing alternative remedy.

5. In view of the above the OA is dismissed at this stage. No cost.

5. We have heard Sri R.K. Upadhyay, learned Counsel appearing for the, petitioner and Sri V.K. Shukla, learned Counsel appearing for the respondents and perused the record.

6. It is not disputed by the learned Counsel for the petitioner that the appeal filed by the petitioner against the order putting off the petitioner from duty is still pending.

Sub-section (1) of section 20 of the Administrative Tribunals Act, 1985 provides that the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

7. In view of the aforesaid provision, it is evident that the Tribunal has rightly declined to entertain the Original Application of the petitioner at this stage as the statutory appeal filed by the petitioner against the order putting of the petitioner from duty is still pending. In our opinion, the Tribunal has not committed any illegality in passing the impugned order dated 22.1.2010.

8. The writ petition filed by the petitioner lacks merits, and the same is liable to be dismissed.

We may however, observe that respondent No. 2 will proceed to decide the appeal of the petitioner expeditiously, preferably within a period of two months of the filing of a certified copy of this order along with the copy of appeal before respondent No. 2.

Subject to the above observations, the writ petition is dismissed.