

(2006) 04 AHC CK 0217
In the Allahabad High Court
Case No : Writ Petition No. 478 (SB) of 2006

D.K. Singh

APPELLANT

Vs

U.P. Jal Nigam and Others

RESPONDENT

Date of Decision : 19-04-2006

Acts Referred:

Uttar Pradesh Public Services (Tribunal) Act, 1976 — Section 4

Citation : (2006) 04 AHC CK 0217

Hon'ble Judges : Rajiv Sharma, J; Pradeep Kant, J

Bench : Division Bench

Advocate : A.P. Srivastava and I.P. Singh, for the Appellant;

Final Decision : Disposed Of

Judgement

1. Heard the learned counsel for the petitioner Sri A.P.Srivastava and Sri I.P.Singh for the U.P. Jal Nigam.

2. During the course of hearing of this petition, learned counsel for the petitioner as well the learned counsel for the Jal Nigam argued about the maintainability of the claim petition itself which is pending before the Tribunal. We have proceeded to consider the aforesaid question while considering the validity of the impugned order, by means of which the prayer for issuing a direction be issued to the Jal Nigam to consider and decide the representation, has been refused. The petitioner is being subjected to disciplinary proceedings. He has been issued a charge sheet and has submitted reply and thereafter the enquiry officer has submitted his report and a show cause notice has been served upon the petitioner. During the pendency of the disciplinary proceedings, the petitioner has filed a claim petition challenging the show cause notice.

3. The apprehension of the petitioner, as has been put forward by the learned counsel for the petitioner, is that despite the representation being made by the petitioner, the Jal Nigam would not consider the representation and would pass adverse orders. It was on this alleged cause of action that the claim petition has

been filed and the interim relief is being asked for.

4. In response, learned counsel for the Jal Nigam has stated that there is a complete procedure, prescribed for holding the disciplinary proceedings in respect of an officer/employee of the Jal Nigam, and the reply/representation against the show cause notice would be considered at the appropriate time before passing the final order. He says that the apprehension of the petitioner that the reply to the show cause notice would not be considered and the final order would be passed is imaginary and a device to keep the claim petition pending, which itself is not maintainable at the intermediary stage of enquiry nor maintainable against the show cause notice and consequently the refusal on the part of the Tribunal to grant interim relief can also not be faulted with.

5. We have considered the arguments of both the sides and we find that though normally the Public Services Tribunal would admit all claim petitions which are filed before it in accordance with Section 4 of the U.P. Public Services Tribunal Act, 1976 but the right of a public servant to approach the Tribunal and his right to get the claim petition admitted for hearing is not so absolute so as to prevent the Tribunal from scrutinizing as to whether any case at all is made out for admitting the claim petition or not. If the claim petition does not disclose any cause of action, the same can be rejected at the time of admission itself keeping in view the principle of Or.7 r 11 of the Code of Civil Procedure. Admitting the claim petitions, which on the face of it, are not maintainable and keeping them pending, not only increases the bulk of frivolous petitions but also adversely affects the proceedings and action, which is yet to be taken against the public servant. This power, however, has to be exercised with great caution. This principle would not mean that the claim of all the applicants on merits can be rejected at the time of admission by the Tribunal because the Tribunal is not satisfied about the merits of the claim. Having no cause of action and no merit in the case are two different aspects, which the Tribunal shall always keep in mind while considering a claim for admission.

6. In the instant case, the claim petition against the show cause notice merely on the apprehension that the reply to the show cause notice would not be considered, was not maintainable. In view of the aforesaid facts, we find that the claim petition itself is not maintainable and is rejected and consequently the impugned order is not open to challenge any further. We, however, hope and trust that the appointing authority while passing the final orders in the enquiry would take into consideration the reply/representation submitted to the show cause notice in accordance with law.

7. The writ petition is disposed of accordingly.

8. Let a copy of this order be sent to the Chairman, U.P. Public Services Tribunal.

A copy of this order shall be supplied to the learned counsel for the petitioner on payment of necessary charges within 24 hours.