

(1987) 11 AHC CK 0055
In the Allahabad High Court
Case No : Writ Petition No. 2000 of 19 9

Keshari Nandan Dwivedi and Others

APPELLANT

Vs

State of U.P. & Others

RESPONDENT

Date of Decision : 17-11-1987

Acts Referred:

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

Citation : (1987) 11 AHC CK 0055

Hon'ble Judges : U.C.Srivastava, J

Final Decision : Allowed

Judgement

U.C. Srivastava, J.—The claim petition filed by the predecessor of the petitioner late Laxmi Narain Dwivedi who was their father and husband of petitioner no. 4 dismissed by the Public Services Tribunal on the ground that the claim petition can be maintained by one whosoever has been a public servant and as during the pendency of claim petition the public servant died, heirs not being public servant, claim petition cannot be maintained. In the claim petition the deceased challenged the compulsory retirement order and any other relief's claimed for reinstatement. So far as relief for reinstatement is concerned, it has become infructuous. But in case it was found that the order retiring the petitioner was not legal the heirs would also become entitled to the money which the deceased would have got. The claim petition undoubtedly was filed by the predecessor of the petitioners but during the pendency of claim petition he died. His estate was to be represented by his heirs and legal representatives. The same cause of action shall still continue which under the law could have accrued to the heirs and legal representative. The view taken by the Public Services Tribunal that the heirs and legal representatives are not public servant is manifestly erroneous and cannot be sustained.

2. Consequently the writ petition is allowed and the order dated 12.6.79 passed by U.P. Public Services Tribunal contained in Annexure3 is quashed. The U.P. Public Services Tribunal is directed to restore back the claim petition to its

original number and hear and decide the same in respect of relief which still survive. No order as to costs.