

(2022) 12 UK CK 0022
In the Uttarakhand High Court
Case No : Special Appeal No. 368 Of 2022

Kheema Nand Tiwrai

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 07-12-2022

Acts Referred:

Uttar Pradesh Public Service (Tribunals) Act, 1976 — Section 2(b)

Citation : (2022) 12 UK CK 0022

Hon'ble Judges : Vipin Sanghi, CJ; R.C. Khulbe, J

Bench : Division Bench

Advocate : Sanjay Bhatt, Anil Kumar Bisht, Ashish Joshi

Final Decision : Dismissed

Judgement

Vipin Sanghi, CJ

1. The present Special Appeal is directed against the order dated 17.10.2022, passed by the learned Single Judge in Writ Petition (S/S) No. 1958 of 2022. The learned Single Judge has dismissed the said Writ Petition, since the writ petitioner-appellant is a public servant, as defined under Section 2(b) of the U.P. Public Service (Tribunals) Act, 1976, and the reliefs sought by the appellant falls for consideration by the Uttarakhand Public Services Tribunal. The appellant has been left to invoke the alternative remedy.

2. The submission of the learned counsel for the appellant is that three Writ Petitions, being Writ Petition (S/B) Nos. 136 of 2021, 172 of 2021 and 539 of 2021, are already pending before this Court in relation to the appellant's claim for promotion to the post of Additional Private Secretary. He submits that, therefore, the appellant may not be relegated to the Uttarakhand Public Services Tribunal to claim the reliefs, as sought in the Writ Petition.

3. We have considered the aforesaid submission of the learned counsel for the appellant. We find that the appellant's case for promotion was considered by the Uttarakhand Public Service Commission on 03.08.2022, and the appellant has

been held to be ineligible for promotion to the post of Additional Private Secretary on the ground that his ACRs are not complete, and his two increments have been withheld. The appellant has preferred the present Writ Petition to assail that decision of the Public Service Commission, and has also sought other consequential reliefs.

4. The said issue raised by the appellant can be decided de hors the pendency of the three Writ Petitions before this Court, being Writ Petition (S/B) Nos. 136 of 2021, 172 of 2021 and 539 of 2021. Even earlier, the appellant has approached the Uttarakhand Public Services Tribunal, and the Tribunal has entertained the appellant's Claim Petitions, and decided them on merit.

5. We are, therefore, not inclined to interfere with the impugned order. The Special Appeal is, accordingly, dismissed. The appellant is, however, at liberty to approach the Uttarakhand Public Services Tribunal to claim the reliefs sought in the Writ Petition.

6. Consequently, pending applications, if any, also stand disposed of.