

(1998) 09 AHC CK 0076
In the Allahabad High Court
Case No : Writ Petition No. 1284 (SB) of 1998

Madan Lal

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 16-09-1998

Acts Referred:

Uttar Pradesh Public Services (Tribunal) Act, 1976 — Section 5B

Citation : (1998) 09 AHC CK 0076

Hon'ble Judges : Brijesh Kumar, J and R.P.Nigam, J

Final Decision : Allowed

Judgement

Brijesh Kumar, J.—This petition has been preferred against the order of the U.P. Public Services Tribunal rejecting the application of the petitioner for interim relief moved in a claim petition filed by the petitioner before the Tribunal against the order of cancellation of his promotion. The Tribunal relying upon Section 5B of the U.P. Public Services Tribunal Act expressed the view that since no interim relief can be granted in the matters relating to reduction in rank or reversion of a public servant, therefore, it had no jurisdiction to allow the application for interim relief.

2. We have heard the learned Counsel for the petitioner and the learned State Counsel and they agree that since the question involved is short, the petition itself may be finally disposed of at this stage.

3. A perusal of Section 5B of the U.P. Public Services Tribunal Act shows that a restriction has been placed on the jurisdiction of the Tribunal providing that it shall have no power to pass an interim order in respect of an order of suspension, dismissal, removal, reduction in rank, termination, compulsory retirement or reversion of a public servant. When a restriction is placed the provision is to be strictly construed. Such provisions cannot be given liberal interpretation. It is a question relating to ouster of jurisdiction of the Tribunal to settle the disputes of public servants. Therefore, in our view, the restriction to exercise the jurisdiction should be strictly confined to the nature of the orders

specified under Section 58 of the Act. It is a different matter that consequence of an order of cancellation of promotion may be that it results in reversion of a person but consideration for cancellation of an order could be different, may be in a given case for the reason to correct any mistake or any other reason. Thus, the nature of the order being different, without taking into account the consequence of the order, we are, therefore, of the view that the Public Services Tribunal would be competent to consider a case for grant of interim relief where the order of promotion has been cancelled and may go into the question as to whether cancellation of promotion has any legal basis or not. Learned Counsel for the petitioner has placed reliance on a decision (1998) 1 UPLBEC 23, Vishwamitra Yadav v. U.P. State Public Services Tribunal, Lucknow & Ors.. The above noted decision is not exactly on the point but there are some observations to the effect that the order of cancellation is an order of different nature.

4. As a result of discussion held above, the writ petition is allowed and the order of the Tribunal dated 681998 contained in Annexure8 to the writ petition is set aside. The Tribunal is directed to reconsider the application for interim relief on merits and pass any appropriate orders as it may deem proper. No order as to costs. W. P. allowed.