
(1986) 01 AHC CK 0041
In the Allahabad High Court
Case No : Writ Petition No. 674 of 1985

Mahendra Pratap Rai

APPELLANT

Vs

State of U.P.& Others

RESPONDENT

Date of Decision : 28-01-1986

Acts Referred:

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

Citation : (1986) 01 AHC CK 0041

Hon'ble Judges : Brijesh Kumar, J

Final Decision : Allowed

Judgement

Brijesh Kumar, J.—This petition has been filed against the order of Tribunal passed on the claim petition of the petitioner against the order of his termination and another order by which a sum of Rs. 26,579, 32P was sought to be recovered from the petitioner. The claim petition has been dismissed on the ground that it is barred by time. The notice of this petition has been accepted by the Chief Standing Counsel. Since a short question is involved, the counsel for the parties have agreed that the petition may be finally disposed of at this stage.

2. The tribunal has observed that the order for recovery of the amount was passed on 27/9/74 against which the petitioner had preferred an appeal on 9/7/75. The order of termination was passed on 30/10/76 against which the petitioner had preferred an appeal on 17/11/76. Thereafter the Tribunal went on to observe that both the appeals were filed; much beyond time. I think this could not be said at least for the appeal which was filed against the order of termination. It would be evident from the order of Tribunal itself that the appeal against the order of termination was filed on 17/11/76 whereas the order of termination was passed on October 30, 1976 i.e. to say, only after eighteen days. The Tribunal has further found that since the appeals were filed beyond time, it was immaterial whether these appeals had been disposed of or not. The view taken by the Tribunal is erroneous. Once the appeals have been filed, they have to be disposed of by the authorities competent to decide those appeals. If

the appeals are timebarred, it is only the competent authority who can dismiss them on that ground. The appeals in any case had to be disposed of. The petitioner would be entitled to have the limitation from the date of disposal of appeals preferred by him. In case the appeals filed by the petitioner are not disposed of for such a long time, the petitioner would be justified in approaching the Tribunal instead of waiting any more for decision by the appellate authority. In this view of the matter, the writ petition is allowed and the order dated 25/9/1985 passed by the Tribunal is set aside and the claim petition is remanded to the Tribunal for deciding it on merits.

3. There would be no order as to costs.