
(2000) 10 AHC CK 0034
In the Allahabad High Court
Case No : Writ Petition No. 1586 (S/B) of 2000

Mamta Kumari

APPELLANT

Vs

U.P. State Public Services Tribunal and others

RESPONDENT

Date of Decision : 12-10-2000

Acts Referred:

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

Citation : (2001) 1 AWC 273 : (2001) 89 FLR 170

Hon'ble Judges : Ikram-ul-Bari, J; Ashish N. Trivedi, J

Bench : Division Bench

Advocate : Mr. J.K. Misra, for the Appellant; C.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Ashish N. Trivedi and Ikram-ul-Bari, JJ.—We have heard learned counsel for the petitioner and Sri Rajiv Sharma, learned standing counsel appearing for the State in opposition to the writ petition and have examined the contentions and material on record.

2. This writ petition is directed against the order dated 2.6.2000 passed in Claim Petition No. 612 of 2000 preferred by the petitioner before the U. P. State Public Service Tribunal (hereinafter referred to as Tribunal). The claim petition was dismissed by the Tribunal on the ground that the Tribunal had no jurisdiction to entertain the claim-petition.

3. We are of the opinion that the Tribunal was perfectly justified not to entertain the claim petition preferred by the petitioner in view of the provisions contained in Section 4 of the U. P. Public Services (Tribunal) Act, 1976 (for short the Act).

4. Sub-section (1) of Section 4 of the Act provides remedy to a person who is or has been a public servant with regard to claim in matters relating to service.

Sub-section (1) of Section 4 reads as under :

"Subject to the other provisions of this Act, a person who is or has been a public

servant and is aggrieved by an order pertaining to a service matter within jurisdiction of the Tribunal, may make a reference of claim to the Tribunal for the redressal of his grievance." (e.s.).

Admittedly, the petitioner is neither a public servant nor had been a public servant.

5. Learned counsel for the petitioner, Sri J. K. Misra has placed before us a copy of the order dated 2.12.1999 passed by the learned single Judge of this Court in Mamta Kumari v. State of U. P. and others, Civil Misc. W.P. No. 50393 of 1999. By the order dated 2.12.1999, the writ petition of the petitioner was disposed of with the following orders :

"Heard learned counsel for the petitioner and learned standing counsel for the respondents.

It appears that the contention of the petitioner that as the petitioner was called for interview, it has to be presumed that the petitioner qualified so far typing speed is concerned. The impugned order indicates that the petitioner did not secure the requisite typing speed. Therefore, it appears that there are disputed question of facts to be decided whether the petitioner secured requisite typing speed during test."

As such questions of facts cannot be decided in writ petition proceeding, no interference is being made on this writ petition and the same is dismissed. I make it clear that if the petitioner approaches the appropriate alternative forum including Tribunal, this order will not prejudice his right there. (e.s.)

Sd/. Alope Chakrabarti, J.

2.12.1999."

The directions were that the petitioner may approach the appropriate forum in accordance with law including the "Tribunal".

6. The petitioner in her wisdom, may be on account of some advice, thought that the Appropriate Forum for redressal of grievance could be U. P. State Public Service Tribunal, this endeavour of the petitioner was misconceived for the facts and reasons discussed above.

7. The Tribunal has no jurisdiction to entertain a claim petition preferred by an aspirant for Government service or a prospective Government servant but not in fact a public servant and, therefore, the petitioner's claim petition was not maintainable.

8. It is not, that the petitioner has no Forum for seeking redress of her grievance but it is for the petitioner to decide as to what Forum should she seek for redressal of her grievance.

9. With these observations, this writ petition is dismissed.

10. No order as to costs.