
(1981) 11 AHC CK 0001
In the Allahabad High Court
Case No : Second Appeal No. 1290 of 1981

Mool Chand Sharma

APPELLANT

Vs

Secretary, Electricity Department and Others

RESPONDENT

Date of Decision : 12-11-1981

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 11
Uttar Pradesh Industrial Disputes Act, 1947 — Section 16, 28, 6
Uttar Pradesh Public Services (Tribunal) Act, 1976 — Section 1(4), 2, 4, 5, 6(1)

Citation : (1981) AWC 843

Hon'ble Judges : Deoki Nandan, J

Bench : Single Bench

Advocate : G.C. Gahrana, for the Appellant;

Final Decision : Dismissed

Judgement

Deoki Nandan, J.—The only point raised before me was that the view taken by the lower appellate Court that the suit was barred by Section 6 of the U.P. Public Services (Tribunals) Act, 1976, was not correctly decided. The contention of the learned Counsel was that the Appellant is a workman, and, therefore, the bar imposed by the U.P. Public Services (Tribunals) Act, 1976, to the institution of a suit by him, did not apply, because by clause (e) of sub-section (4) of Section 1, the applicability of the Act was generally excluded in the case of a workman, as defined in the Industrial Disputes Act, 1947 or the U.P. Industrial Disputes Act, 1947.

2. In the face of the language of the provisions referred to above, it is impossible to uphold the contention of the learned Counsel. Sub-section (4) of Section 1 of the U.P. Public Services (Tribunals) Act, 1976, provides that this Section and Sections 2 and 6 shall apply in relation to all public servants while the remaining provisions shall not apply to the following of public servants, namely. :

(a) ...

(b) ...

(c) ...

(d)

(e) a workman as defined in the Industrial Disputes Act, 1947 (Act XIV of 1947), or the United Provinces Industrial Disputes Act, 1947 (U.P. Act XXVIII of 1947).

3. Sub-Sections (1) and (2) of Section 6 of the Act provides as follows :

(1) No suit shall lie against the State Government or any local authority or any statutory corporation or company for any relief in respect of any matter relating to employment at the instance of any person who is or has been a public servant, including a person specified in clauses (a) to (e) of sub-section (4) of Section 1.

(2) All suits for the like relief, and all appeals, revisions, applications for review and other incidental or ancillary proceedings (including all proceedings under Order XXXIX of the first Schedule to the Code of Criminal Procedure, 1908)(Act X of 1908), arising out of such suits, and all applications for permission to sue or appeal as pauper for the like relief, pending before any Court subordinate to the High Court and all revisions (arising out of interlocutory orders) pending before the High Court on the date immediately preceding the appointed date shall abate, and their records shall be transferred to such Tribunal as the State Government may specify, and thereupon the Tribunal shall decide the cases in the same manner as if they were referred to it u/s 4 :

Provided that the Tribunal shall, subject to the provisions of Section 5, recommence the proceedings from the stage at which the case abated as aforesaid and deal with any pleadings presented or any oral or documentary evidence produced in the Court as if the same were presented or produced before the Tribunal.

4. Section 6 is made applicable to all public servants including a workman as defined in the Industrial Disputes Act. It is undisputed that the Appellant is a public servant, and, even if he is a workman, Section 6 being applicable, and the suit being in respect of a matter relating to his service, it was clearly barred.

5. The learned Counsel for the Appellant, however, referred to the observations of the Supreme Court in *The Premier Automobiles Ltd. Vs. Kamlekar Shantaram Wadke of Bombay and Others*, . That case has no application to the facts of the present case and the particular observations relied upon by the learned Counsel are not relevant for determining the effect of Section 6 read with sub-section (1) of the U.P. Public Services (Tribunals) Act, 1976.

6. Dismissed under Order 41 Rule 11, Code of Civil Procedure.