

(2009) 05 AHC CK 0575
In the Allahabad High Court

Omkar Nath Mishra

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 06-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0575

Hon'ble Judges : V.K.Shukla, J

Final Decision : Dismissed

Judgement

V.K.Shukla, J.

Present writ petition has been filed by the petitioner requesting therein that authority be directed to release the arrears of salary of the petitioner since 21.05.1982 to 07.07.1991.

Record in question reflects that petitioner claims that he was appointed on the post of Assistant Teacher on 30.09.1981. Thereafter petitioner set up case that his services were terminated on 20.05.1982 and against the same he filed Civil Misc. Writ Petition No. 8377 of 1982 and this Court passed interim order. Petitioner has contended that thereafter his services has been regularized and approval has also been accorded by the District Inspector of Schools, Kannauj on 03.05.2000. Petitioner has also contended that he has got selection grade. Petitioner has further stated that he has got his writ petition dismissed as not pressed vide order dated 21.08.1995. Petitioner has contended that thereafter he moved application followed by reminders as nothing has been done then present writ petition has been filed.

Learned counsel for the petitioner contended with vehemence that in the present case petitioner is entitled for salary as has been prayed for, as such writ petition in question deserves to be allowed.

Countering said submission, learned Standing counsel contended that writ petition preferred on behalf of the petitioner is liable to be dismissed on latches.

After respective arguments have been advanced factual position which is emerging in the present case is that petitioner claims that he has been appointed on 30.09.1981 and thereafter his services has been terminated w.e.f. 20.05.1982. Petitioner claims that he has filed Civil Misc. Writ Petition No. 8377 of 1982 wherein interim order was passed. Petitioner has further contended that his service were regularized vide order dated 13.04.1994 pursuant to notification dated 06.04.1991. Petitioner has contended that he has been accorded selection grade also but till date salary since 21.05.1982 to 07.07.1991 has not been accorded. In earlier round of litigation petitioner has got writ petition dismissed on 21.08.1995 salary which has been claimed by him is much prior to dismissal of the aforesaid writ petition. Merely because statement of fact has been mentioned by petitioner that representations were moved by petitioner for salary, same will not explain and improve the case of the petitioner qua the undue delay in approaching this Court as here admittedly petitioner's claim for getting money decree under civil law remedy is clearly barred by limitation. Once suit cannot be instituted for grant of his salary for the aforesaid period and then by no stretch of imagination writ petition can be entertained after 18 years for grant of salary for the said period by contending that representations had been moved and no decision has been taken.

Consequently, writ petition is dismissed being barred by laches.