

(1980) 01 AHC CK 0012
In the Allahabad High Court
Case No : Civil Revision No. 1772 of 1978

Prem Narain

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 24-01-1980

Acts Referred:

Uttar Pradesh Public Services (Tribunal) Act, 1976 — Section 4, 5, 6(2)

Citation : (1980) AWC 196

Hon'ble Judges : Satish Chandra, C.J

Bench : Single Bench

Advocate : M.C. Dwivedi, for the Appellant;

Final Decision : Allowed

Judgement

Satish Chandra, C.J.—In a suit for the recovery of money due as salary the Plaintiff applied for the transfer of the record of the case to the Public Services Tribunal after abating the suit u/s 6 (2) of the U.P. Public Services (Tribunals) Act, 1976. This application was rejected on the ground that the plaint of the suit was insufficiently stamped. The Plaintiff was directed to deposit the requisite court fee in 15 days failing which the plaint shall stand rejected. Aggrieved, the Plaintiff has come to this Court in revision.

2. Learned Counsel for the Plaintiff-applicant submits that in view of Section 6 (2) of the Act the suit, as it was, stood abated and the court had no jurisdiction to take any steps except to transfer the records to the Tribunal. The submission is justified. Section 6 (2) provides;

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 Civil Procedure, 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 claims 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 before the Tribunal.

3. It will be seen that not only suits, appeals, revisions, etc, but applications for permission to sue as a pauper, also abated. An application for permission to sue as a pauper is made in a pending suit, namely, after the plaint has been filed. If such pauper applications are to abate and the records of the case are to be transferred to the Tribunal, the court has no jurisdiction to proceed further either with an application for permission to sue as a pauper or with the suit. On the relevant and material date the plaint of the present case was deficiently stamped. Since statutorily the suit abated, the court had no jurisdiction to take any steps in it. It could not ask the Plaintiff to deposit the deficiency in court fee. It was bound to abate the suit and then transfer the records of the case to the Tribunal.

4. In the result, the revision succeeds and is allowed. The impugned order is quashed. The suit is declared to have abated u/s 6(2) of the Act. The trial court will now forthwith transmit the records of this case to the concerned Tribunal. There will be no order as to costs.