
(2021) 10 UK CK 0054

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1043 Of 2021

Rajender Kumar Yadav And Others

APPELLANT

Vs

Union Of India And Another

RESPONDENT

Date of Decision : 07-10-2021

Acts Referred:

Citation : (2021) 10 UK CK 0054

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ravindra Maithani, J

1. By means of the instant writ petition, petitioner seeks the following reliefs:-

"(i) Issue a writ, order or direction in the nature of certiorari to quash order dated 01.09.2004 (Annexure no. 1) passed by respondent no. 3 on the representation submitted by the petitioners.

(ii) Issue a writ, order or direction in the nature of mandamus directing the Respondents to reinstate the petitioners in the services with effect from the date of oral termination from services on 01.09.2002.

(iii) a writ, order or direction in the nature of mandamus directing the respondents to appoint them as regular employee and pay them the salary from 1.09.2002.

(iv) any suitable writ, order or direction, which this Hon'ble court may deem fit and proper on the basis of the facts and circumstances of the case.

(v) Award the cost of the petition to the Petitioners."

2. It is the case of the petitioners that they were appointed with the respondent no.2 i.e. the department of Instrument Research and Development Estt. in the year 1991. Their services were terminated on 01.09.2002. They unsuccessfully

raised their claim before the Assistant Labour Commissioner, Dehradun. Thereafter, the petitioners approached the Central Administrative Tribunal (for short, "Tribunal") at New Delhi by filing OA No.2145 of 2002 (for short, "the first claim"). The first claim was disposed of with the directions to the respondent no.2 to decide the representation by a reasoned and speaking order. The respondent no.2 rejected the claim of the petitioners by an order dated 04.12.2002.

3. It is the case of the petitioners that they preferred another claim bearing OA No.3160 of 2002 (for short, "the second claim") before the Tribunal. The second claim was decided on 06.02.2004 by the Tribunal. It was observed as hereunder:-

"11. Thus, having regard to the facts and circumstances of the case and also keeping in mind the various aspects of the matter which have been gone through by the Hon'ble Supreme Court while deciding and despoising of the aforesaid Writ Petition, and also considering the fact that the applicants have essentially served the respondents through the contractor/society, I am inclined to dispose of this OA by remitting the matter to the respondents with direction that they reconsider the case of the applicants in the light of the decisions of the Hon'ble Supreme Court in Writ Petition No.277/1988 and dispose it of by issuing a reasoned and speaking order covering all the points as have been referred to in the above mentioned decisions of the Hon'ble Supreme Court. They are further directed to dispose of the matter in the above manner within a period of four months from the date of receipt of a copy of this order.

12. With the above directions, the OA stands disposed of. No costs."

4. Thereafter, again the representation of the petitioners was rejected on 01.09.2004. Petitioners filed a contempt petition before the Tribunal bearing CP No.432 of 2004. The contempt petition was decided on 15.07.2005. The notices were discharged and in para 6 of the judgment, it was observed as hereunder:-

"6. It goes without saying that the scope of contempt petition is very limited and we cannot go into the correctness of the reasoning given by the respondents in contempt matter. Since direction given to respondents was to consider the case of applicants and they have already considered all the cases and passed a detailed and speaking order as well. NO case for contempt is made out. CP is accordingly dismissed. Notices issued to the respondents are discharged. However, if applicants are aggrieved by the order dated 1.9.2004 they would be at liberty to challenge the same on original side, if so advised."

5. Now, petitioners have filed the instant writ petition challenging the order dated 01.09.2004, termination order dated 01.09.2002 and related reliefs.

6. Heard learned counsel for the parties and perused the record.

7. At the very outset, the Court wanted to know from the learned counsel for the petitioners, as to how the instant petition is maintainable in view of the facts that earlier the petitioners raised their claim before the Tribunal, in which, twice

directions were issued for deciding the representation of the petitioners?

8. Learned counsel for the petitioners would submit that since the last representation of the petitioners was decided on 01.09.2004, therefore, it would be too late to approach the Tribunal again.

9. Admittedly, the jurisdiction of the Tribunal covers the field. Twice, the petitioners had approached the Tribunal in the first and in the second claim and based on the directions issued by the Tribunal, representations were presented, which were decided successively by the respondent no.2. Not only this, the second representation of the petitioners was rejected on 01.09.2004, against which, a contempt petition was also filed by the petitioners before the Tribunal, in which, the Tribunal has held that though, the contempt is not maintainable, but petitioner may, if so advised, approach on original side. Instead of approaching the Tribunal again, the petitioners have approached this Court. Petitioners have admittedly, have alternate efficacious remedy before the Tribunal, therefore, the instant petition may not be entertained in this Court. Accordingly, the petition deserves to be dismissed at the stage of admission itself.

10. The writ petition is dismissed in limine.