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(1999) 05 AHC CK 0092

In the Allahabad High Court

Case No : C.M.W.P. No. 20520 of 1999

Ram Singh — APPELLANT

Vs

Managind Director, U.P. Co-op. Federation, Lucknow and others — RESPONDENT

Date of Decision : 18-05-1999

Acts Referred:

Citation : (1999) 3 AWC 2154

Hon'ble Judges : D.K. Seth, J

Bench : Single Bench

Advocate : M.A. Zaidi, for the Appellant; Vikas Chandra Tripathi, for the Respondent

Judgement

D.K. Seth, J.—The petitioner alleges that he was suspended and subjected to a disciplinary proceeding which ultimately resulted into termination of his service. The petitioner has challenged the said order in Writ Petition No. Nil of 1994 wherein an interim order was granted staying the operation of the order dated 24.7.1993. The said writ petition is still pending. By means of this writ petition, the petitioner has claimed that he may be paid salary due from 24.1.1994 to 15.7.1996 and suspension allowance for the period between 14.7.1991 and 24.7.1993 and also to pay annual Increment and decide his representation.

The question of subsistence allowance if not already paid can be decided in the pending writ petition. The question of payment of full salary is dependent on the outcome of the decision in the pending writ petition. Unless the order of termination is set aside, there is no question of payment of full salary for the period after 24.7.1993, viz., the date of termination. The question of annual increment is also dependent on the result of the said writ petition. This writ petition is, therefore, wholly misconceived.

In fact the very relief which is being sought in this petition can very well be prayed within the scope and ambit of the earlier writ petition. There is no fresh cause of action for the petitioner in the present writ petition. Inasmuch as on the

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basis of the interim order passed in the said writ petition, the claim of the petitioner in this writ petition is founded. For the relief based on such interim order, the second writ petition cannot be maintained.

Therefore, after hearing learned counsel for petitioner Shri M. A. Zaidi and learned counsel for the respondents Shri Vikas Chandra Tripathi. this writ petition is dismissed on the ground mentioned above.

2. However, it will be open to the petitioner to agitate all these questions in the pending writ petition if he is so advised.

3. There will be however no order as to costs.

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