
(1999) 05 AHC CK 0146
In the Allahabad High Court
Case No : Writ Petition No. 1950/(SB)/97

Rama Kant Dixit

APPELLANT

Vs

State Service Tribunal

RESPONDENT

Date of Decision : 02-05-1999

Acts Referred:

Citation : (1999) 05 AHC CK 0146

Hon'ble Judges : S.H.A.Raza, J and R.D.shukla, J

Final Decision : Dismissed

Judgement

1. The services of the petitioner were terminated by means of order dated 28th September, 1979. The petitioner filed a claim petition on 30th June, 1996. Surprising by the Tribunal while dismissing the claim petition on the ground that it was barred by time also dealt with the merits of the case which it should have not done so. The Tribunal took a hyper technical view by stating that against an order of termination of services there existed no provision for making representation, hence, the petitioner could have filed the claim petition within a period of three years from the date of the termination of the decision and not within a period of three years from the date of decision on the representation.

2. Undoubtedly, a claim petition was filed after a lapse of 11 years from the date of termination of the services of the petitioner ; but the petitioner contended before the Tribunal that during this period he was making representation to the authorities concerned and also gave a notice which was replied by Assistant Engineer on 16th September, 1987. The petitioner also submitted a representation on July, 1987. The receipt of which was not acknowledged by the respondents. By means of the letter dated 16th September, 1987 the Assistant Engineer informed the petitioner that in case he filed any case that (sic) contested. The tribunal was of the view that the petitioner had not preferred any representation as warranted by law. The order of termination came into effect on 30th September, 1979 and the limitation for filing a claim petition was three years. It was incumbent upon the petitioner to have filed his claim petition by

September, 1982 ; but as against the order of termination no representation lie, hence on the ground of pendency of representation, the claim petition cannot be said to be filed within a period of limitation as prescribed under the Act. The Tribunal has been vested with a power to adjudicate upon the dispute between a public servant and the State or other instrumentalities of the State. If the Tribunal wanted to dismiss the claim petition on the ground of limitation it was not necessary for it to delve into the merits of the case. But the Tribunal has also delved into the merits of the case and also gave a finding. Considering the facts and circumstances of the case we are of the view that the Tribunal committed a manifest error of law by rejecting the claim petition on the ground of limitation particularly when it dealt with the merits of the case as well.

3. In view of what has been stated above herein, a writ in the nature of certiorari is issued quashing the order dated 13th November, 1995 passed by the Tribunal. The Tribunal is further directed to reregister the case on its original number and decide the case afresh on merit.