

(2018) 11 UK CK 0252

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 608 Of 2018

Smt. Kalawati Martolia

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 29-11-2018

Acts Referred:

Uttar Pradesh Public Services (Tribunal) Act, 1976 — Section 1(4), 1(4)(c), 2, 6
Constitution of India, 1950 — Article 226

Citation : (2018) 11 UK CK 0252

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Singh, J

Bench : Division Bench

Advocate : Amar Shukla, Paresh Tripathi

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, C.J.

1. Sri Amar Shukla, learned counsel for the petitioner, would submit that, in view of the prohibition under Section 1(4)(c) of the Uttar Pradesh Public Services (Tribunal) Act, 1976 (hereinafter referred to as the "1976 Act"), the petitioner, a Class-II employee in the Uttarakhand Secretariat, cannot approach the Tribunals constituted under the 1976 Act. Section 1(4) of the 1976 Act makes Sections 1, 2 and 6 applicable in relation to all public servants, while the remaining provisions are not applicable to the classes of public servants referred to in clauses (a) to (g) thereunder.

2. Section 1(4)(c) of the 1976 Act, on which reliance is placed by Sri Amar Shukla, learned counsel for the petitioner, applies only to member of the Secretariat staff of any House of the State Legislature. In effect Section 1(4)(c) makes certain provisions of the 1976 Act inapplicable to members of the Secretariat staff of the Uttarakhand Legislative Assembly. The petitioner is, admittedly, not a member of the Secretariat staff of the Uttarakhand Legislative Assembly, but is a Section Officer with the Uttarakhand State Government.

Section 1(4)(c) has, therefore, no application to the petitioner and she can, therefore, invoke the jurisdiction of the Tribunals constituted under the 1976 Act.

3. While the petitioner is, no doubt, not obligated to approach the Uttarakhand Public Services Tribunal in the first instance, as has been held by us in our order in Writ Petition (SB) No. 413 of 2016 dated 15.11.2018, the fact remains that the jurisdiction which this Court exercises, under Article 226 of the Constitution of India, is discretionary; and it is not as if this Court would entertain every writ petition filed by persons aggrieved by the action of the Government with regards their terms and conditions of service, for it is not in dispute that the Tribunal also has jurisdiction to entertain such matters.

4. While, ordinarily, the jurisdiction of the Tribunal should be invoked in such matters, this Court can always entertain a writ petition, on its jurisdiction being invoked directly, in exceptional cases. As the disputes raised in the present writ petition can be effectively adjudicated by the Tribunal, we see no reason to entertain this writ petition, and therefore relegate the petitioner to avail her effective statutory remedy of approaching the Tribunal constituted under the Uttar Pradesh Public Services (Tribunal) Act, 1976.

5. Leaving it open to the petitioner to approach the Uttarakhand Public Services Tribunal, the writ petition is dismissed.