
(1999) 08 AHC CK 0141
In the Allahabad High Court
Case No : Writ Petition No. 840 (S/B) of 1997

Smt. Kunti and others

APPELLANT

Vs

U.P. Services Tribunal and others

RESPONDENT

Date of Decision : 30-08-1999

Acts Referred:

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

Citation : (2000) 2 AWC 1412 : (2000) 3 UPLBEC 1979

Hon'ble Judges : Kamal Kishore, J;Dev Kant Trivedi, J

Bench : Division Bench

Advocate : Ira B. Singh, M.M. Srivastava and K.S. Rai, for the Appellant; C.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Dev Kant Trivedi and Kamal Kishore, JJ.—By means of the present writ petition, the order dated 31st October, 1996, passed by the U. P. Public Services Tribunal in Claim Petition No. 1022 of 1995 has been challenged by the widow and the sons of Late Sri Ram Narain Rai.

2. Ram Narain Rai was a police Head Constable who was dismissed from service by means of order dated 3rd August, 1993 passed by the Commandant, 4th Bn. P.A.C. Allahabad. Ram Narain Rai died on 12th of December, 1993. The petitioners filed a Claim Petition No. 1022 of 1995. During the pendency of the said claim petition, a representation was made to the D.I.G., P.A.C., Allahabad. The said representation was dismissed by the D.I.G., P.A.C., and thereby the appeal of Late Sri Ram Narain Rai was also dismissed, This order dated 20th April, 1996 and so also the order dated 31st October, 1996 whereby the claim petition was dismissed as not maintainable, have been challenged in the present writ petition.

3. It appears that Head Constable Ram Narain Rai had consumed liquor on 24th October, 1992 and in drunken condition in the evening had misbehaved, abused

and assaulted several police personnel at Police Station. Karari, Allahabad and for these acts of Indiscipline, he was sentenced to 28 days" Cell punishment at the Quarter Guard by means of order dated 5th January. 1993. During this period on 16th January. 1993, Head Constable Ram Naratn Rai was found in drunken condition at the Quarter Guard and the disciplinary enquiry was Initiated. He was found guilty of misconduct in departmental proceedings and, therefore, was dismissed from service by means of order dated 3rd August, 1993. Head Constable Ram Naratn Rai died on 12th December, 1993. The representation dated 1.9.1994 made by his widow petitioner No. 1 Smt. Kunti Rai was considered by the D.I.G., P.A.C., and the said representation was dismissed. The claim petition which was earlier filed by the widow and the sons of the dismissed Head Constable, was rejected on the ground that it was not maintainable.

4. The petitioners claim that the order dated 31st October, 1996 passed by the U. P. Public Services Tribunal is illegal and the claim petition was maintainable, while on the other hand the learned standing counsel urged that the claim petition was rightly dismissed. u/s 4 of the U. P. Public Services Tribunals Act, 1976, the claim petition can be brought by a person who is a public servant or who has been a public servant. In the present case, the petitioners are neither public servants, nor they had at any point of time been the public servants. They, no doubt, are the heirs of the deceased public servant, but they cannot be deemed to be the public servants, nor have stepped into the shoes of public servant for the purposes of filing and maintaining a claim petition before the U. P. Public Services Tribunal.

5. Reliance has been placed on the other hand by the petitioners on Smt. Sudha Shrivastava Vs. Comptroller and Auditor General of India, , wherein the widow of a deceased Government servant was held to be entitled to maintain the proceedings. The said case related to a Central Government servant and was dealt with under Administrative Tribunals Act. 1985. In the said Act, any person aggrieved by any order pertaining to any matter within the jurisdiction of a Central Administrative Tribunal may make an application for redressal of his grievance. While in the present case, reference to the State Public Services Tribunal can be made only by a public servant.

6. Moreover in the said case It was held that the death of a workman during pendency of the proceedings against his termination cannot deprive his heirs or the legal representatives of their right to continue the proceedings and claim the benefit as successors of the deceased-workman. In the present case, no proceedings were pending before the U. P. Public Services Tribunal when the employee had died. Thus, it is not a case where the petitioners could have continued with the proceedings. The case before the Hon"ble Supreme Court was with regard to the promotion of an employee which was withheld only on account of the pendency of the criminal prosecution, during which the employee died and his wife was held entitled to file a petition for back wages before the Central Administrative Tribunal which is not the case before us.

7. The instant case before us is not that of continuing the proceedings at the instance of the legal heirs/representatives of the deceased, rather the case is regarding the maintainability of proceedings and entertaining of the claim petition before U. P. Public Services Tribunal. It is not the denial of the right to get the order of dismissal set aside, rather it is only the denial of the hearing by the Services Tribunal in which the proceedings have to be initiated either by the public servant or a person who has been a public servant. The benefit of the above authority is, therefore, not available to the petitioners before the U. P. Public Services Tribunal as the Jurisdiction of the U. P. Public Services Tribunal is limited to the redressal of the grievances of a person who has been a public servant or is a public servant. No doubt, legal representatives and heirs of a public servant may continue with a claim petition already filed by a public servant or a person who has been a public servant as the proceedings could not have abated if there were legal representatives/heirs available to continue and maintain the proceedings. In the present case, no proceedings were pending before the U. P. Public Services Tribunal at the instance of a public servant or for that matter by the dismissed public servant and, therefore, there was no question of continuing the proceedings. The petitioners in the present case could not have filed the claim petition before the U. P. Public Services Tribunal, though they might have the right to challenge the dismissal before the civil court. In the circumstances. It was not a case that the cause of action did not occur to the petitioners, rather the forum was wrongly chosen by the petitioners, and the U. P. Public Services Tribunal had no alternative but to reject the claim on the ground of its maintainability itself. In the circumstances, it is evident that the petitioners could not have invoked the jurisdiction of the U. P. Public Services Tribunal by filing Claim Petition No. 1022 of 1995 which was rightly rejected as not maintainable. It is, therefore, not possible to interfere with the impugned orders passed by the U. P. Public Services Tribunal.

8. The writ petition is accordingly dismissed.