

(2005) 11 UK CK 0017

In the Uttarakhand High Court

Case No : Writ Petition No. 302 of 2005 (S/B)

Smt. Premwati Arora

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 25-11-2005

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Public Services (Tribunal) Act, 1976 — Section 5(5), 5B, 5C

Citation : (2006) 2 UC 739

Hon'ble Judges : Cyriac Joseph, C.J.; Prafulla C. Pant, J

Bench : Division Bench

Advocate : Manoj Tiwari, for the Appellant;

Final Decision : Dismissed

Judgement

Cyriac Joseph, C.J.—Having heard learned Counsel for the Petitioner and having considered the materials placed on record, we are satisfied that the Petitioner is a public servant in the service of the Government of Uttamachal and the relief claimed in this writ petition is in respect of a matter relating to his employment under the Government of Uttaranchal. Hence, the Petitioner has got an efficacious alternate remedy of filing a claim petition before the Uttaranchal Public Services Tribunal.

2. Mr. Manoj Tewari, learned Counsel for the Petitioner submits that since the Public Services Tribunal has no power to pass interim orders, the Petitioner will have to suffer reduction in his pay till a final decision is taken by the Tribunal in any claim petition filed by him and therefore, the writ petition can be entertained under Article 226 of the Constitution of India. The above contention is misconceived. According to Section 5(5)(j) of the U.P. Public Services (Tribunal) Act, 1976 which is applicable to the Uttaranchal Public Services Tribunal also, the Tribunal has the power to pass interlocutory orders pending final decision in any reference, on such terms, if any, as it thinks fit to impose. The dispute involved in this case is not a matter which attracts the prohibition contained in Sections

5B and 5C of the said Act against making an interim order. Therefore, we do not find any valid reason to entertain this writ petition. We decline to exercise our jurisdiction under Article 226 of the Constitution of India in this case.

3. Hence, the writ petition is dismissed in limine.