
(2011) 04 AHC CK 0059
In the Allahabad High Court
Case No : Writ Petition No. 3210 (MB) of 2011

Surendra Kumar Yadav

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 05-04-2011

Acts Referred:

Consumer Protection Act, 1986 — Section 10, 10(1A)(2)

Citation : (2011) 4 ADJ 322

Hon'ble Judges : Vedpal, J;Pradeep Kant, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. By the Court.-Heard the learned Counsel for the Petitioner Sri M.E. Khan and Sri H.P. Srivastava, learned Additional Chief Standing Counsel for the State.
2. The Petitioner who is a registered advocate, was appointed as a member of District Consumer Forum, Ambedkar Nagar on 5.7.2005. The term of the Petitioner was for five years, which came to an end in July, 2010.
3. The Petitioner applied for reappointment as member of the District Consumer Forum 6.7.2010 but without considering his case for reappointment, fresh appointment of opposite party No. 3 has been made.
4. The Petitioner's plea is that in view of the proviso to Sub-clause (2) of Sub-Section 1-A of Section 10, he was entitled for being considered for reappointment and that without considering his case for reappointment, fresh appointment could not have been made.
5. Sri H.P. Srivastava refuting the aforesaid argument submitted that proviso to the aforesaid Sub-Section 1-A(2) to Section 10, does not give any vested right to the Petitioner for reappointment but it only lays down the eligibility criteria for such a reappointment.
6. We have considered the arguments and gone through the relevant provisions

of the Consumer Protection Act, 1986 and in particular, the aforesaid provision and we find that the writ petition has been filed under misconceived impression that the proviso to Sub-clause (2) of Sub-Section 1-A of Section 10 confers any right of reappointment on a person who has been a member of the District Consumer Forum and who is eligible for being reappointed after expiry of his term of five years.

7. Sub-clause (2) of Section 1 -A of Section 10 reads as under:

(2) Every member of the District Forum shall hold office for a term of five years or up to the age of sixty-five years, whichever is earlier:

Provided that a member shall be eligible for re-appointment for another term of five years or up to the age of sixty-five years, whichever is earlier, subject to the condition that he fulfils the qualifications and other conditions for appointment mentioned in Clause (b) of Sub-section (1) and such reappointment is also made on the basis of the recommendations of the Selection Committee:

8. A bare perusal of the aforesaid provision would reveal that it is a provision which lays down the eligibility criteria for a fresh term of next five years after the first term of five years comes to an end.

9. Sub-clause (2) aforesaid prescribes the tenure of office of every member of the District Forum, which says that he shall hold office for a term of five years or up to the age of sixty-five years, whichever is earlier.

10. This means that there may be cases where a person has completed five years of term but has not yet reached sixty-five years of age, which is the maximum age up to which a member can work. In such a situation, the person who was appointed as a member of the District Consumer Forum, can still be reappointed till he reaches the age of sixty-five years but again this term cannot be more than five years.

11. The Petitioner has shown his age as 41 years, therefore, he was eligible for being reappointed as member of District Consumer Forum but it was the discretion of the State Government either to appoint him or to make a fresh appointment.

12. The eligibility for reappointment given in the aforesaid clause by no means can be taken as a right of extension or renewal of the term as member of the District Consumer Forum.

13. There cannot be any enforceable right of reappointment though a person may be eligible for such an appointment. Laying down the eligibility criteria in itself would not and cannot be taken to mean that any right vests with the member to get himself considered for reappointment, because of the said criteria being laid down. It is only an enabling provision for the State Government to reappoint a member after his term of five years comes to an end, in case he fulfils the eligibility conditions prescribed therein.

14. Thus, the Petitioner does not have any enforceable right for being reappointed as member of the District Consumer Forum.

15. The petition is dismissed.