

Court No. - 3

Case :- WRIT - A No. - 25583 of 2017

Petitioner :- Lallu Singh

Respondent :- State Of U.P. And 3 Ors.

Counsel for Petitioner :- Bibhuti Narayan Singh

Counsel for Respondent :- C.S.C.

Hon'ble Krishna Murari,J.

Hon'ble Ravindra Nath Kakkar,J.

Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.

Petitioner has approached this Court challenging the judgement and order dated 28.4.2017 passed by the State Public Services Tribunal dismissing the claim petition as barred by limitation.

Undisputed facts are that petitioner who was working as constable in 41 Battalion, P.A.C., Ghaziabad was served with a show cause notice under Rule 14(2) read with Rule 4(1)(b)(iv) of the U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991 on the allegation that he made a fake complaint against his superior. Petitioner submitted his reply. He was awarded punishment of censure. Appeal and revision filed by him were also dismissed by the appellate and revisional authority on 01.06.2009 and 23.11.2009 respectively. He preferred Civil Misc. Writ Petition No. 1140 of 2011 before this Court which came to be dismissed on 13.11.2014 on the ground of alternative remedy. Thereafter, the petitioner preferred a claim petition before the State Public Services Tribunal.

Learned counsel for the petitioner submits that limitation for filing the claim petition before the Tribunal would start from the date of dismissal of the writ petition and thus, the Tribunal has committed a manifest error in law in dismissing the claim petition as barred by limitation. It is further submitted that in any view of the matter, the petitioner is entitled to the benefit of Section 14 of the Limitation Act for pursuing a remedy before a wrong forum.

We have considered the argument advanced by learned counsel for the petitioner.

Section 5(b) of the U.P. Public Services (Tribunal) Act, 1976 prescribes the time limit for filing claim petition before the Tribunal. The relevant Section reads as under :

"5 (b). The provisions of the Limitation Act, 1963 (Act 36 of 1963) shall be mutatis mutandis apply to reference under Section 14 as if a reference where a suit filed in civil court so, however, that

(i) notwithstanding the period of limitation prescribed in the Schedule to the said Act, the period of limitation for such reference shall be one year;

(ii) in computing the period of limitation the period beginning with the date on which the public servant makes a representation or prefers an appeal, revision or any other petition (not being a memorial to the

Governor), in accordance with the rules or orders regulating his conditions of service, and ending with the date on which such public servant has knowledge of the final order passed on such representation, appeal, revision or petition, as the case may be, shall be excluded :

Provided that any reference for which the period of limitation prescribed by the Limitation Act, 1963 is more than one year, a reference under Section 4 may be made within the period prescribed by the Act, or within one year next after the commencement of the Uttar Pradesh Public Services (Tribunals) (Amendment) Act, 1985 whichever period expires earlier :

Provided further that nothing in this clause as substituted by the Uttar Pradesh Public Services (Tribunal) (Amendment) Act, 1985, shall affect any reference made before and pending at the commencement of the said Act."

A perusal of the provision makes it clear that the provisions of the Limitation Act are applicable to a reference under Section 4 of the Act as if it was a suit filed in a civil court. Clause (i) of the said Section limits the period of limitation for filing a claim petition as one year.

Admittedly, the revision filed by the petitioner challenging the order of punishment was dismissed by the revisional court on 23.11.2009, from which date the limitation of one year prescribed for filing a claim petition before the Tribunal started running. Petitioner filed the writ petition in 2011, after expiry of period of limitation of one year prescribed for filing claim petition.

It is well settled legal proposition that limitation once starts running no subsequent event can stop it. In the case in hand, limitation started running from the date 23.11.2009 when the revision filed by the petitioner was dismissed and came to an end after expiry of one year. Petitioner filed writ petition after expiry of one year which was dismissed on 13.11.2014 and claim petition was preferred in 2015.

In view of above facts and discussions and settled legal propositions, provisions of Section 5 of the Limitation Act are not attracted and the petitioner is not entitled to be extended the benefit of Section 14 of the Limitation Act and thus, we do not find any illegality in the impugned order passed by the Tribunal requiring any interference.

Writ petition is devoid of merits and accordingly stands dismissed.

Order Date :- 30.5.2017

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