

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/B) No. 22 of 2016

Subhash Chandra. Petitioner

Versus

State of Uttarakhand & others. Respondents

Mr. K.P. Upadhyaya, Advocate for the petitioner.

Mr. C.S. Rawat, Addl. Chief Standing Counsel for the State of Uttarakhand / respondent
Nos. 1 & 2.

Mr. Ravi Babulkar, Advocate for respondent No. 3.

JUDGMENT

Coram: Hon'ble Ramesh Ranganathan, C.J.

Hon'ble Alok Singh, J.

Dated: 30th November, 2018

RAMESH RANGANATHAN, C.J. (Oral)

Admittedly, the subject matter of the dispute falls within the purview of the Uttar Pradesh Public Services (Tribunal) Act, 1976 (hereinafter referred to as the "1976 Act"). The petitioner, instead of approaching the Tribunal, has chosen to invoke the jurisdiction of this Court.

2. 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.

3. 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 his effective statutory remedy of approaching the Tribunal constituted under the 1976 Act.

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

5. In case the petitioner approaches the Tribunal, the Tribunal shall also consider entertaining the original application taking into consideration the fact that the present writ petition has been pending on the file of this Court for past more than 2 ½ years.

(Alok Singh, J.)
30.11.2018

(Ramesh Ranganathan, C. J.)
30.11.2018

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