

Court No. - 6

Case :- WRIT - A No. - 7409 of 2000

Petitioner :- Chandra Kumar Dixit

Respondent :- District Administrative Committee

Counsel for Petitioner :- Dr.R.K.Srivastava

Counsel for Respondent :- R.K.Chaudhary

Hon'ble Irshad Ali,J.

1. Heard Dr. R.K. Srivastava, learned counsel for the petitioner and Shri R.K. Chaudhary, learned counsel for the respondent.

2. Against the impugned dismissal order, the petitioner has right to file an appeal to the appellate Authority under the relevant Rules.

3. Vide order dated 24.7.2009, this Court while entertaining the writ petition left open to raise the plea of availability of alternative remedy to the petitioner at the time of hearing.

4. Shri R.K. Chaudhary, learned counsel for the respondent has pointed out that he has raised this question from beginning and in short counter in paragraph 6 as well as in detailed counter affidavit in paragraph 9, he has specifically stated that against the order of District Administrative Committee, an appeal lies before the Regional Administrative Committee. He has submitted that ignoring statutory remedy of appeal, this writ petition has been filed.

5. Learned counsel for the petitioner without filing reply to the counter affidavit has submitted that alternative remedy is not an absolute bar if the order of dismissal has been passed without considering the fact that the enquiry is ex parte in nature. It is always open to entertain the writ petition.

In support of his submission, learned counsel for the petitioner has placed reliance upon judgment in the case of **Mamendra Pratap and another v. Deputy Registrar (Registration), Lucknow and others** reported in **2010 (28) LCD 1744** inasmuch as he has placed reliance upon another judgment rendered in the case of **Kashinat h Dikshita v. Union of India and others** reported in **(1986) 3 Supreme Court Cases 229**, whereby it has been submitted that in absence of any enquiry, order of dismissal is bad in law.

6. Having heard learned counsel for the parties, I am of the considered opinion that all these questions which have been

raised by learned counsel for the petitioner is open to take up in the statutory appeal. Once there is a statutory alternative remedy to file an appeal, this writ petition is **dismissed**.

7. It is however provided that in case the petitioner files such an appeal within three weeks from the date of production of a certified copy of this order, the same will be entertained by the Appellate Authority without raising any objection as to the limitation and the same will be decided preferably within a period of two months thereafter in accordance with law.

Order Date :- 31.3.2023

GK Sinha