

U.P. JAL NIGAM AND ANR.
v.
NARESHWAR SAHAI MATHUR AND ANR.

OCTOBER 6, 1994

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

Constitution of India, 1950 :

Article 226—Filing of Writ Petitions in service matters—Alternative statutory remedy before Tribunal not availed—Held Statutory obligation to first avail the statutory remedy before taking recourse to Art. 226.

The U.P. Public Service Tribunal was specially constituted to consider the service grievances of the U.P. State Government servants. Some writ petitions were filed in the High Court without approaching the Tribunal and the High Court directed the petitioners to avail of the statutory remedy from the Tribunal and in case, they could not succeed they may approach the High Court. The respondent also filed a Writ Petition and the High Court entertained the petition and directed the parties to complete their pleadings. The appellant filed an application praying for dismissal of the Writ Petition and for directing the respondent to first avail the statutory remedy. The application was rejected, against which the present appeal has been filed.

Allowing the appeal, this Court

HELD : When a statutory Tribunal was constituted specially to look into the grievances of the government servants, it is statutory obligation on the part of such government servants, first to avail of the statutory remedy. In case, they are aggrieved against the order passed by the Tribunal, the remedy under Art. 226 would always be available to them. Under these circumstances, when the two Division Benches had rightly declined to entertain the Writ Petitions and directed the parties to avail of the statutory remedy, another Division Bench was wholly unjustified in entertaining the Writ Petition and directing its early disposal. [317-A, B]

A **CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6867 of 1994.**

From the Judgment and Order dated 19.1.94 of the Allahabad High Court in W.P. No. 928(SS) of 1992.

B Gopal Subramaniam and R.B. Misra for the Appellants.

Pramod Swarup, Syed Abu Ahmad and M.S. Bisht for the Respondents.

C The following Order of the Court was delivered :

Leave granted.

D The matter relates to the promotion to the post of Chief Engineer, Level II in U.P. Jal Nigam. The U.P. Public Service Tribunal is specially constituted to consider the service grievances of the government servants of the U.P. State. When Government servants, Mr. Om Narain Dwivedi and S.C. Atri, approached the High Court of Allahabad at Allahabad Bench for redressal of their service grievances, two different Benches of the High Court by orders dated March 23, 1993 and April 15, 1993 directed them to avail of the statutory alternative remedy available from the Tribunal and in case they were unsuccessful in getting the relief, to approach the High Court. The respondent, who was also a Govt. servant filed the Writ Petition in the High Court of Allahabad at Lucknow Bench seeking relief as regards his service grievance and the High Court entertained the Writ Petition and directed the parties to complete their pleadings. The appellant filed an application to dismiss the Writ Petition and direct the respondent to avail of the statutory remedy. The Division Bench, by the impugned order dated January 19, 1994, held that since the pleadings were complete, it was not necessary to relegate the parties to the Tribunal to avail of the statutory remedy and that, therefore, dismissed the application. Thus, this appeal by special leave.

E It is contended for the respondents by Mr. Pramod Swarup, the learned counsel for respondents that since the pleadings were complete, direction was given by the learned Chief Justice for early disposal and hence this is not a case warranting interference under Art. 136. We find

H no force in the contention.

When a statutory Tribunal was constituted specially to look into the grievances of the government servants, it is statutory obligation on the part of such government servants, first to avail of the statutory remedy. In case, they are aggrieved against the order passed by the Tribunal, the remedy under Art. 226 is always available to them. Under these circumstances, when the two Division Benches had rightly declined to entertain the Writ Petitions and directed the parties to avail of the statutory remedy, another Division Bench was wholly unjustified in entertaining the Writ Petition under the impugned order and directing its early disposal.

The appeal is accordingly allowed. The High Court is requested to transmit the papers to the Tribunal. It is open to the respondents to avail of the statutory remedy to avail of the statutory remedy before the Tribunal. No costs.

G.N.

Appeal allowed.