

Court No. - 10

Case :- WRIT - A No. - 20179 of 2007

Petitioner :- Tej Bahadur Singh

Respondent :- The State Of U.P. And Others

Counsel for Petitioner :- Ram Belas Yadav,Alok Ranjan Tripathi,Jagmohan Singh,Shrawan Dwivedi

Counsel for Respondent :- C.S.C.,R.A. Gaur,S. Kumar,Sunil Kumar Mishra

Hon'ble Kshitij Shailendra,J.

1. Heard Shri Jagmohan Singh, learned counsel for the petitioner, learned Standing Counsel for respondent no.1, Shri Sunil Kumar Mishra, learned counsel for respondent nos.2, 3 and 4.

2. The petitioner was dismissed from service and departmental appeal and revision filed by him against the punishment order have also been dismissed.

3. The attack of learned counsel for the petitioner is on the sustainability of the inquiry proceedings and various submissions have been made regarding merits of the punishment order terming it to be too harsh and contrary to the law.

4. On the other hand, Shri S.K. Mishra, learned counsel for the respondents, by placing reliance upon judgment of this Court in ***Chandrama Singh v. Managing Director, U.P. Cooperative (1991) 1 UPLBEC (2) 898*** as well as Apex Court in ***Hindustan Steel Works Construction Ltd. and another Vs. Hindustan Steels Works Construction Ltd., Employees Union- (2005) 6 SCC 725*** and ***U.P. State Spinning Co. Ltd. Vs. R.S. Pandey and another, (2005) 107 F.L.R.729*** has argued that U.P.S.R.T.C. has admittedly been treated as an Industry as covered by the said definition under the provisions of U.P. Industrial Disputes Act, 1947 and, therefore, the remedy lies before the Labour Court. He has also placed reliance upon the order of this Court dated 13.01.2021 passed in

Writ A No.254 of 2021 (Rajit Ram Yadav v. State of U.P. And 5 Others). The submission is that under identical facts and circumstances, this Court has even after dismissal of appeal and revision, relegated the concerned employee to avail remedy under the U.P. Industrial Disputes Act, 1947.

5. Though, learned counsel for the petitioner submits that the argument of alternative remedy was not raised at the initial stage and the writ petition is pending for the last 16 years and the petitioner is aged about 74 years, in view of the aforesaid decisions, this Court refrains itself from deciding the validity of the order impugned in Writ Jurisdiction.

6. The writ petition is **disposed off** in the following terms:-

(a). The petitioner shall produce a certified copy of this order before the Principal Secretary (Transport), U.P., Lucknow in the month of **November 2023 itself**.

(b). The Principal Secretary (Transport) shall immediately make a reference to the Labour Court in the month of **December 2023**.

(c). The Labour Court concerned shall register the reference and after providing opportunity of hearing to the petitioner as well as Corporation and after exchange of statement of defense and the concerned evidence, decide the adjudication case **on or before 30.04.2024** on merits in accordance with the provisions of U.P. Industrial Disputes Act, 1947 read with U.P. State Road Transport Corporation Employees (Other than Officers) Service Regulation, 1981.

Order Date :- 6.11.2023

Jyotsana