

Court No. - 1

Case :- WRIT - A No. - 9441 of 2023

Petitioner :- Om Prakash Upadhyay

Respondent :- State Public Services Tribunal, Lko. And Others

Counsel for Petitioner :- Lalit Shukla, Shashank Upadhyay

Counsel for Respondent :- Manish Mishra, C.S.C.

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Om Prakash Shukla, J.

1. Heard Sri Lalit Shukla, learned counsel for the petitioner and Sri Indra Jeet Shukla, learned Additional Chief Standing Counsel for the State.

2. A Claim Petition under Section 4 of the U.P. Public Services Tribunal Act, 1976 was instituted by the petitioner against the orders dated 23.05.2016 and 16.08.2017, passed by the departmental authorities. The order dated 23.05.2016 had denied the payment of salary to the petitioner on the ground of 'no work no pay'.

3. The Claim Petition assailing the aforesaid orders was instituted before the Tribunal on 24.05.2018. A written statement was filed by the State taking a plea that Claim Petition was barred by time.

4. The learned Tribunal having regard to the pleadings set out before the tribunal has ultimately concluded that the order dated 23.05.2016 which was passed by the competent authority was not within the reach of limitation of one year as prescribed under law, beyond which the Claim Petition would not lie. The letter dated 16.08.2017 was held to be a mere communication. This finding recorded by the Tribunal on a close scrutiny of the judgment impugned herein does not suffer from any illegality, whatsoever.

5. Learned counsel for the petitioner is also unable to show as to whether any statutory representation would lie against the order dated 23.05.2016.

6. In these circumstances, the interpretation of the provision of rule of limitation as made by the Tribunal does not suffer from any illegality. That being so, the rejection of the Claim Petition by the Tribunal, in our humble consideration, does not suffer from any illegality and the judgment so rendered by the

Tribunal deserves to be upheld. We accordingly uphold the judgment passed by the learned Tribunal and the writ petition is accordingly **dismissed**.

7. The order passed by this Court upholding the judgment rendered by the Tribunal would, however, not prejudice the representation made by the petitioner, if any, as regards the regularization of period of service without pay and for the purposes of retiral dues.

Order Date :- 14.12.2023

Sanjay