

Dr. Krishna Kant Trivedi Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : May-10-2002

Reported in : 2002(3)AWC1907; [2002(94)FLR19]; (2002)2UPLBEC1945

Judge : M. Katju and ;Rakesh Tiwari, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : C.M.W.P. No. 22606 of 2000

Appellant : Dr. Krishna Kant Trivedi

Respondent : State of U.P. and ors.

Advocate for Def. : Anupam Shukla, Adv. and ;Pushpendra Singh, S.C.

Advocate for Pet/Ap. : W.H. Khan and ;J.H. Khan, Adv.

Disposition : Petition dismissed

Judgement :

M. Katju and Rakesh Tiwari, JJ.

1. Heard learned counsel for the parties.

2. The petitioner, inter alia, has claimed that he should be considered for promotion for the post of Assistant Alcohol Technologist. This is precisely the

prayer which the petitioner has made in Reference Application No, 461 of 2000 before the U. P. Public Service Tribunal, Lucknow. Since the petitioner is pursuing his alternative remedy before the Tribunal, we are not inclined to exercise our discretion under Article 226 of the Constitution,

3. Learned counsel for the petitioner has urged that in this writ petition apart from claiming that he should be considered for promotion as Assistant Alcohol Technologist, the petitioner has also prayed for quashing of the Impugned orders dated 29.4.2000 and 4.11.2000 by which the respondent No. 4 was promoted and the petitioner's representation was rejected. In our opinion, the petitioner should move an amendment application in the claim petition before the Tribunal challenging the aforesaid orders. In our opinion, since there was only one post of Assistant Alcohol Technologist, the prayers (a) and (b) in this writ petition are intrinsically connected and they are not separate from each other. If we allow the petitioner's case in this petition on merits, it will make the claim petition infructuous. We are not inclined to do this as we are of the opinion that since the petitioner had filed the claim petition before the Tribunal before he filed this writ petition, he should be compelled to pursue that alternative remedy and he cannot pursue two remedies at the same time.

4. This petition is therefore, dismissed on the ground of alternative remedy. The petitioner may make an impleadment or amendment application before the Tribunal. The Tribunal may decide the case as expeditiously as possible preferably within four months of production of a certified copy of this order in accordance with law.

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