



The allegation that an appointment of a public servant has been made illegally or contrary to law would not fall within the realm of jurisdiction of the Lokayukta or Up Lokayukta. This is particularly so as Section 8(1)(b) excludes matters from the purview of jurisdiction of the Lokayukta/Up Lokayukta. Clause (d) of the Third Schedule clearly postulates that action taken in respect of appointments, removals, pay, discipline, etc., would be excluded from the scope of inquiry by the Lokayukta/Up Lokayukta, except matters relating to claims, for pension, gratuity, provident fund, etc., which arise on retirement, removal or termination of service. (Para 11)

Therefore, the complaint made by the petitioner questioning the appointment of private respondent before the Up Lokayukta itself is not maintainable. (Para 12)

**Writ petition dismissed. (E-4)**

(Delivered by Hon'ble Ashwani Kumar Mishra, J. & Hon'ble Donadi Ramesh, J.)

1. Heard learned counsel for the petitioner, Sri Manas Bhargava, learned counsel for the respondent no. 1 and learned Standing Counsel for the State respondents.

2. This writ petition has been filed with the prayer to issue a writ of mandamus commanding the first respondent to decide petitioner's complaint dated 29.5.2023, by passing a reasoned speaking order. The first respondent in this case is the Lokayukta, Uttar Pradesh, Lucknow. The complaint dated 29.5.2023, is in respect of appointment offered to the private respondent as Senior Assistant in the office of Deputy Labour Commissioner, Bareilly. According to petitioner the appointment has been obtained illegally.

3. While entertaining the writ petition doubts were expressed with regard

to entertainability of a claim of this kind before the Up Lokayukta and to conduct investigation in this regard. Following orders were passed in the matter on 27.2.2025:-

*"Heard Sri Namit Srivastava, learned counsel for the petitioner and Sri Manas Bhargava, learned counsel for respondent no.1.*

*We adjourn the matter for the day in order to enable learned counsel for the petitioner to apprise the Court on the aspect relating jurisdiction of Up-Lok Ayukta to conduct investigation in a case where the appointment of a government servant is challenged.*

*Repeat as fresh on its turn."*

4. Instructions have been obtained by Sri Manas Bhargava, who has placed statutory scheme, according to which, the complaint of the present kind wherein the appointment of a government servant is challenged would not be maintainable before the Up Lokayukta.

5. In order to appreciate the controversy, it would be worth noticing that Uttar Pradesh Lokayukta and Up Lokayukta Act, 1975, has been enacted by the State to make provision for the appointment and functions of certain authorities for the investigation of grievances and allegations against ministers, legislators and other public servants in certain cases and for matters connected therewith. Section 2 of the Act of 1975 contains the definition clause. Sub-section (b) of Section 2 as well as sub-section (d) of Section 2 defines 'allegations' and 'grievances', which are reproduced hereinafter:-

"(b) "allegation", in relation to a public servant, mean- any affirmation that such public servant? has abused his position as such to obtain any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person, was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motive, or is guilty of corruption, or lack of integrity in his capacity as such public servant;

(d) "grievance" means a claim by a person that he sustained injustice or undue hardship in consequence of maladministration;"

6. Section 8 provides for matters, which are not subject to investigation by the Lokayukta or Up Lokayukta. Our attention has been invited under Section 8(1)(b)(i), which is reproduced hereinafter:-

*"8(1)(b) in the case of a complaint involving a grievance in respect of any action,--*

*(i) if such action relates to any- matter specified in the Third Schedule; or*

*(ii) if the complainant has or had any remedy by way of proceeding before any Tribunal or Court of law:*

*Provided that nothing in sub-clause (ii) shall prevent the Lokayukta or an Up- Lokayukta from conducting an investigation if he is satisfied that such person could not or cannot, for sufficient cause, have recourse to a remedy referred to in that sub-clause."*

7. Pursuant to above provision, Third Schedule has been framed, in which Clause (d) relates to the appointment and is reproduced hereinafter:-

*"(d) Action taken in respect of appointments, removals, pay, discipline, superannuation or other matters relating to conditions of service of public servants but not including action relating to claims, for pension, gratuity, provident fund or to any claims which arise on retirement, removal or termination of service."*

8. From the statutory scheme contained in U.P. Act No. 42 of 1975, the object is abundantly clear which is to make provision for appointment and function of authorities which may investigate grievances and allegations against ministers, legislators and other public servants.

9. The primary object of appointing the Lokayukta and Up Lokayukta is to investigate allegations against the ministers, legislators and other public servants primarily in discharge of their official functions. This scheme is apparent, inasmuch as, the legislature while defining allegation has clearly included allegation in respect to a public servant where such allegation is with regard to abuse of his position, as such to obtain any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person; allegation that the discharge of function by the public servant was actuated by personal interest or improper or corrupt motive, or is guilty of corruption, or lack of integrity in his capacity as such public servant.

