

Court No. - 18

**Case :-** SERVICE SINGLE No. - 2009 of 2013

**Petitioner :-** Arun Kumar Mishra

**Respondent :-** State Of U.P.Thru Prin.Secy.Home Govt.Of U.P.Civil & Another

**Petitioner Counsel :-** Sajjad Husain

**Respondent Counsel :-** C.S.C.

**Hon'ble Anil Kumar,J.**

Heard Sri Sajjad Husain, learned counsel for petitioner learned State counsel and perused the record.

Initially the petitioner approached this Court by filing Writ Petition No. 711 (SS) of 2013 (A.K. Misra Vs. State of U.P. and others) with the following main reliefs:-

"I. Issue a writ, order or direction in the nature of MANDAMUS commanding the opposite parties to ensure evaluation of the optional Marking Reader (O.M.R.) Answer Sheet of the petitioner and declare his result within the stipulated time as this Hon'ble Court deem just and proper.

II. Issue a writ, order or direction in the nature of MANDAMUS commanding the opposite parties to allow the petitioner to appear in the physical test for selection/appointment on the post of Sub Inspector, Civil Police and Platoon Commander."

The said writ petition has been dismissed by means of order dated 19.02.2013, on reproductions reads as under:-

*"After arguing at some length, learned counsel for the petitioner submits that the present writ petition may be dismissed as not pressed.*

*Learned State Counsel has no objection to the abovesaid prayer.*

*For the foregoing reasons, the writ petition is dismissed as not pressed."*

Learned State counsel has raised a preliminary objection that on the same cause of action, present writ petition is liable to be dismissed on the said ground.

I have heard learned counsel for parties and gone through the record.

Now on the same cause of action/relief, the petitioner has filed present writ petition and the relief which is claimed in the present writ petition are same as claimed by him in Writ Petition No. 711 (SS) of 2013 (A.K. Misra Vs. State of U.P. and others).

Thus, after hearing learned counsel for parties and going through the record, an objection has raised by Sri Amitabh Rai, learned Additional Chief

Standing counsel that once liberty has not been given by this Court while passing the order dated 19.03.2013, so the present writ petition on the same cause of action is not maintainable rather the objection the objection raised by learned State counsel is correct rather in accordance with the provisions as provided under Order 23 Rule 1 CPC read with Chapter 22 Rule 7 of the Allahabad High Court Rules.

Further, this Court in the case of **Ashok Pratap Singh Vs. State of U.P. and others 2004(3) ESC ( All) 1629** after placing reliance on the judgment of Hon'ble Apex Court in the case of **Sarguja Transport Service Vs. State Transport Appellate Tribunal, Gwalior and others , AIR 1987 SC 88** this Court in paras 15 and 16 has held as under:-

*"The issue involved herein had been considered time and again by the Hon'ble Apex Court and practice of filing successive writ petitions has not only been deprecated , but the writ petitions also held to be not maintainable.*

*The Hon'ble Supreme Court time and again held that even if the earlier writ petition has been dismissed as withdrawn. Public Policy , which is reflected in the principle enshrined in Order XXIII Rule 1 CPC , mandates that successive writ petition be not entertained for the same relief."*

For the foregoing reasons, the writ petition is not maintainable being the second writ petition on the same cause of action, thus, dismissed on the said ground.

**Order Date :- 10.4.2013**

Ravi/