

**(2008) 01 AHC CK 0096**

**Allahabad High Court**

**Case No:** Special Appeal No. 1701 of 2007

Jagdish

APPELLANT

Vs

Executive Engineer and Others

RESPONDENT

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**Date of Decision:** Jan. 15, 2008

**Acts Referred:**

- Uttar Pradesh Public Services (Tribunal) Act, 1976 - Section 2

**Hon'ble Judges:** Amitava Lala, J and Shishir Kumar, J

**Final Decision:** Disposed Of

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### **Judgement**

1. Impugned order of learned Single Judge is dated 26th October, 2007, by which the writ petition was dismissed on the ground of alternative remedy, holding that the petitioner is a public servant, therefore, alternative forum is U.P. Public Services Tribunal.

2. By preferring special appeal, the appellant contended that he was selected and appointed but formal order of appointment has not been given therefore, till this date he is a candidate for selection and not an employee, and as such, does not come within the purview of "public servant" under Section 2 or under Section 4 of the UP. Public Services (Tribunal) Act, 1976.

3. Upon considering pros and cons we find that the submission of the petitioner is correct, therefore, we set aside the order impugned and send the matter back for the purpose of reconsideration on merit by the learned Single Judge. The appeal accordingly stands disposed of.

4. No order is passed as to costs.