



2026:AHC:161788

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 41380 of 2002

Nasir Hussain

.....Petitioner(s)

Versus

Supdt. Of Police And Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Anil Tiwari, Subhash Chandra Maurya, Subhash Maurya
Counsel for Respondent(s)	:	C.S.C.

Court No. - 34

Sl. No. 20

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Ms. Anjali Shukla, holding brief for Subhash Chandra Maurya, learned counsel for the petitioner and Sri Jitendra Prasad, learned standing counsel for the State.

2. The instant petition has been filed by the petitioner seeking quashing of the order dated 25.09.2000 passed by the disciplinary authority whereby the services of the petitioner were terminated from the post of Constable, Civil Police, as he was found guilty of the charges leveled against him with regard to escape of an accused from his custody as well as he has taken the accused to his village instead to the medical college for treatment. The petitioner has also challenged the order dated 25.11.2000 and 28.11.2001 passed by the appellate authority as well as by the revisional authority, whereby the appeal and revision filed by the petitioner were rejected.

3. Briefly stated facts of the case are that the petitioner herein was working as Police Constable in UP Police. On 11.03.1999 around 09:50 AM, the petitioner herein received an accused/prisoner Rajpal from District Jail, Bijnor in his custody to take him to the Medical College, Meerut for treatment and thereafter he did not return. On 13.03.1999 the petitioner reported at Police Station Kotwali City, Bijnor that on 12.03.1999 around 07:30 PM the said prisoner has escaped from his

custody after removing the handcuffs, while he was being carried back to the jail. After the aforesaid incident, the petitioner has reported the incident on 13.03.1999 after giving sufficient time to said prisoner to escape.

4. The second charge against the petitioner was that on 11.03.1999 when the petitioner was assigned the duty to carry the prisoner to the medical college for treatment, he has taken the said prisoner to his village, which has been proved by the various villagers. On the basis of the aforesaid charges, a disciplinary proceeding was initiated against the petitioner. The charge-sheet was issued to the petitioner on 27.08.1999. The charge-sheet was duly served upon the petitioner and he has also cross-examined the various witnesses during the inquiry proceedings and thereafter the inquiry officer has submitted his inquiry report dated 10.08.2000. Thereafter, the disciplinary authority had issued the show cause notice to the petitioner, which was also replied by the petitioner and thereafter by the impugned order dated 25.09.2000 the disciplinary authority having considered the inquiry report and the representation of the petitioner to the show cause notice and has passed the order of termination of services of the petitioner having found that the charges leveled against the petitioner have been proved. Thereafter, the appeal and revision filed by the petitioner was also dismissed by the impugned orders dated 25.11.2000 and 28.11.2001, respectively.

5. Learned counsel for the petitioner submits that the explanation of the petitioner is that on 11.03.1999 he has taken the said prisoner in his custody to carry him to the medical college and in fact, he has carried him to the medical college. However, since by the time they reached there the hospital was closed and therefore the treatment of the said prisoner could not be started. Thereafter, in the night they had to stay at some rest house near the railway station Meerut and on 12.03.1999 the prisoner was taken to the medical college where the slip was issued in the name of the prisoner and doctor has examined him and thereafter the prescription was also issued by the doctor and advised to come again on 16.03.1999. Thereafter, he reached from Meerut to Bijnor around 07:30 pm by bus and when he reached the bus stand, the accused/prisoner went for

urination and thereafter the said prisoner has escaped from his custody. Therefore, there was no deliberate intent or act on the part of the petitioner in escaping the said accused/prisoner from his custody and immediately thereafter the petitioner along with other constables had tried to search out the said accused/prisoner and even went to his village as well, where he could not be found and then the petitioner has informed his family members with regard to escaping of the said accused/prisoner from the custody. Thereafter, on the next date an FIR being Case Crime No. 213 of 1999 under Section 224 IPC was lodged against the said prisoner at PS Kotwali, Bijnor.

6. Therefore, it is the submission of the counsel for the petitioner that the petitioner has acted bonafidely and has made all efforts to trace out the said escaped prisoner before lodging the FIR against him and thus the time taken in lodging the FIR is due to the bona fide efforts made by the petitioner to search out the said missing prisoner. Therefore, there was no guilt on the part of the petitioner in getting the said accused person escape from the custody. Therefore, learned counsel for the petitioner submits the delay in reporting is due to the bonafide efforts made by the petitioner, which has not been duly appreciated by the inquiry officer as well as the disciplinary authority and consequently, the impugned punishment order has been passed against the petitioner. Learned counsel for the petitioner therefore seeks quashing of the punishment order as well as the appellate and revisional order.

7. Per contra, learned standing counsel for the State submits that after due opportunity granted to the petitioner, the charges leveled against the petitioner have been found proved, on the basis whereof it has been held that the escaping of an a prisoner from the custody of the petitioner was an act of grievous negligence and indiscipline on the part of the petitioner. Therefore, the punishment awarded to the petitioner is in accordance with the rules and is not an excessive punishment. Therefore, no interference is called for by this Court in the instant petition.

8. Having heard the rival submissions made by learned counsel for the parties, this Court has carefully gone through the record of the case. The

facts of the case have already been noted herein above. From the perusal of the record, it is apparent that it is an admitted case of the petitioner that the accused/prisoner, which was handed over to the custody of the petitioner for medical treatment, has escaped from his custody. Though the defense of the petitioner is that it was not a deliberate act on the part of the petitioner but it is categorically apparent from the facts of the case that it was an act of negligence and indiscipline on the part of the petitioner and under Rule 8, Sub-rule (4)(a), the only punishment provided for such an act of escaping of a prisoner or an accused from the custody is punishment of dismissal from service.

9. In such view of the matter, this Court do not find any illegality in the entire process adopted in conducting the disciplinary proceeding against the petitioner or passing the impugned punishment order against the petitioner as well as appellate order and revisional order.

10. For the reasons aforesaid, the instant petition lacks merit and is accordingly **dismissed**.

(Anish Kumar Gupta,J.)

August 3, 2026

o.k.