



2026:AHC:172222

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 30467 of 2016

Madhav Ram Gautam

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Jai Singh Parihar
Counsel for Respondent(s)	:	C.S.C.

Court No. - 34

(Sl.No.22)

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Jai Singh Parihar, learned counsel for the petitioner and Shri Brijesh Kumar Srivastava, learned Standing Counsel for the State.

2. The instant petition has been filed by the petitioner with the following prayers:

"(1) issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 13.02.2016, 10.08.2015 and 26.08.2013 passed by respondent no.2, 3 & 4 (Annexures No.9, 7 & 5 to this writ petition respectively);

(ii) issue a writ, order or direction in the nature of Mandamus directing the Respondents to sanction the medical leave of the petitioner and also pay the salary deducted by the said impugned orders;"

3. The briefly stated facts of the case are that the petitioner was initially appointed as Sub-Inspector in Civil Police. At the relevant time on 21.09.2012, the petitioner was posted as Sub-Inspector at P.S. Puramufti, District Kaushambi and when he became ill, consequently he went to Primary Health Centre, Puramufti after recording the entry of Ravangi in Rapat No. 28. Thereafter, from Primary Health Centre, he was referred to the Government Hospital, TB Sapru, Allahabad. In this regard, the petitioner had informed the SHO concerned as well as Superintendent of Police, Kaushambi and went for his treatment. While the petitioner was

undergoing the treatment, the Superintendent of Police, Kaushambi illegally transferred the petitioner from police station Puramufti to Police Line, Kaushambi on 13.10.2012 and thereafter, he was transferred to GRP Jhansi. Being aggrieved, the petitioner approached this Court by filing the Writ petition (S/S) No. 749 of 2013 (Madhav Ram Gautam vs. State of UP), before the Lucknow Bench of this High Court, which was disposed of on 13.02.2013. Thereupon, the petitioner, after obtaining the fitness certificate from the Chief Medical Officer, Allahabad, approached the Superintendent of Police, Kaushambi for his joining. However, he was not allowed to join, thereafter he filed the contempt petition and pursuant to the contempt petition, the petitioner was permitted to join on 16.04.2013 at Police Line, Kaushambi. Thereafter, a preliminary enquiry was initiated against the petitioner for his unauthorized absence of 184 days. In the preliminary enquiry, a finding was recorded that the petitioner was absent from his duties due to his illness and in this regard, he has already intimated his superior officers by speed post and after obtaining the fitness certificate along with medical certificate, he approached for his joining at Police Line, Kaushambi. In such circumstances, it was recommended in the enquiry report that the petitioner be sanctioned the medical leave for 184 days.

4. Despite the aforesaid categorical enquiry report submitted by the Circle Officer, Chail, Kaushambi, the disciplinary proceedings were initiated against the petitioner. Charge was framed against the petitioner and after serving the charge sheet and receipt of response of the petitioner along with the medical certificates, fitness certificates and information sent through registered post to the respondents, the enquiry officer concluded the enquiry and recommended that the petitioner be sanctioned the medical leave for a period from 21.09.2012 till to 20.02.2013, total 153 days and for the rest of the period i.e. 21.02.2013 till 16.04.2013 i.e. total 55 days, for which the petitioner was not allowed to join by the respondents, the appropriate orders may be passed. Despite the aforesaid categorical report submitted by the enquiry officer, the Superintendent of Police, Kaushambi issued show cause notice to the petitioner, erroneously holding that the petitioner has been found guilty of his unauthorized absence of 153 days from 21.09.2012 till 20.02.2013. In such

circumstances, it was provided in the show cause notice that why the salary for said 153 days be not stopped. In response thereto, the detailed representation was submitted by the petitioner. Thereafter, the Superintendent of Police, Kaushambi, vide order dated 30.07.2013 sanctioned the earned leave of 55 days for the period in which the petitioner was not allowed to join by the respondents. However, vide order dated 26.08.2013, the leave without pay was sanctioned for 153 days instead of sanctioning the medical leave to the petitioner on the basis of the medical record submitted by the petitioner.

5. Being aggrieved, the petitioner has filed the appeal before the appellate authority i.e. the Deputy Inspector General of Police, Allahabad Zone, Allahabad, which was rejected vide order dated 10.08.2015. Thereafter being aggrieved by the appellate order, the petitioner filed the revision petition before the Inspector General of Police, Allahabad Zone, Allahabad, which was also rejected vide order dated 13.02.2016. Hence, this writ petition has been filed by the petitioner.

6. Learned counsel for the petitioner submits that once in preliminary enquiry as well as the final enquiry conducted against the petitioner, the categorical finding has been recorded that the petitioner was absent from his duties due to his medical condition, for which the medical certificate as well as the intimation sent to the respondents was already taken note of by the enquiry officer and the recommendation was also made by the enquiry officer to sanction the medical leave to the petitioner. Despite the same, the further proceeding has been initiated by issuing the show cause notice and the petitioner, instead of sanctioning the medical leave, has been sanctioned the leave without pay.

7. Learned counsel for the respondents is not in a position to dispute the findings of the two enquiry officers that the petitioner was absent from the duties due to his medical condition for which the due medical certificate has been produced by the petitioner and the intimation with regard to his illness was also sent by the petitioner to the superior officers.

8. In such view of the matter, the impugned order dated 26.08.2013 as well as the orders passed by the appellate authority and the revisional

authority are without any basis and reasoning. It was the duty of the respondents to sanction the medical leaves to the petitioner, which were duly available to the petitioner.

9. In such view of the matter, the instant petition is **allowed**.

10. The respondents are directed to sanction the medical leave of 153 days to the petitioner from 21.09.2012 till 20.02.2013 and all consequential benefits along with salary for the said period, shall be paid to the petitioner within a period of eight weeks from the date of production of certified copy of this order.

(Anish Kumar Gupta,J.)

August 14, 2026
Ashish Pd.