



2026:AHC-LKO:2638-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL DEFECTIVE No. - 472 of 2025

U.P. State Food and Essential Commodities Corporation Ltd. Thru.
Managing Director and 2 others

.....Appellant(s)

Versus

Jai Prakash Narain Srivastava

.....Respondent(s)

Counsel for Appellant(s)	: Kaushlendra Tewari,
Counsel for Respondent(s)	: Shachindra Pratap Singh,

Court No. - 1

**HON'BLE RAJAN ROY, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.**

(Order on C.M. Application (IA) No. 1 of 2025)

1. Heard Shri Sudeep Seth, learned Senior Advocate, assisted by Shri Kaushlendra Tewari, learned counsel appearing for the appellants as well as Shri Shachindra Pratap Singh, learned counsel for the respondent and perused the materials available on record.
2. As per the office report this appeal is beyond time by 94 days. Learned counsel for the private respondent does not raise any objection to the delay condonation application.
3. After going through the affidavit filed in support of the application for condonation of delay, we also find that bonafide and sincere efforts were made by the appellants to get the appeal prepared with all the necessary particulars and filed it as earliest as possible.

4. In view of the explanation offered which we find to be satisfactory, we **condone** the delay in filing the appeal. The application for condonation of delay is **allowed**.

5. An application has also been filed for deletion of the name of appellant no.2 from the array of the parties with a supporting affidavit, as, though initially made a party in the writ petition, at some stage his name was deleted from the said proceedings.

6. Application is **allowed**.

7. Let the appellant no.2 be deleted from the array of the parties during course of the day.

(Order on Appeal)

1. Heard Shri Sudeep Seth, learned Senior Advocate, assisted by Shri Kaushlendra Tewari, learned counsel appearing for the appellants as well as Shri Shachindra Pratap Singh, learned counsel for the respondent and perused the materials available on record.

2. This Special Appeal has been filed by the appellants under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 challenging the Judgment and order dated 24.07.2025 passed by the learned Single Judge in Writ-A No. 19130 of 2018 (Jai Prakash Narain Srivastava vs. U.P. State Food and Essential Commodities Corporation Limited and others).

3. The case at hand has a chequered history. The respondent-petitioner was working as Godown Incharge with the appellant's corporation when he was placed under suspension. A charge sheet dated 21.03.2006 was served upon him containing 11 charges. The respondent-petitioner submitted his reply on 11.04.2006. The inquiry officer without fixing any date, time and place of inquiry and without

conducting the same in the presence of the respondent-delinquent employee, submitted an inquiry report dated 20.09.2006, based whereon a show-cause notice dated 02.11.2006 was issued to the respondent-petitioner for his response. The respondent-petitioner submitted his response dated 16.11.2006. Thereafter, the respondent-petitioner was dismissed from service vide order dated 03.08.2007. In the interregnum, the petitioner was re-instated in service during pendency of the disciplinary proceedings against him i.e. vide order dated 23.11.2006.

4. The punishment order was put to challenge by filing an appeal which was rejected on 08.05.2008.

5. The disciplinary proceedings and the punishment imposed as also the Appellate order were challenged by the respondent-petitioner by filing a Writ Petition bearing No. 4404(SS) of 2008. The said petition was dismissed by the learned Single Judge on 29.01.2013.

6. Being aggrieved, the respondent-petitioner filed an Appeal bearing Special Appeal No. 114 of 2013, which was allowed on the ground that due procedure for imposing a major punishment and principles of natural justice had not been complied. Paragraph no.16 and 17 of the said Judgment are quoted below hereunder:-

"16. In the present case, since enquiry has not been conducted in accordance with Rules, giving due opportunity of hearing and charge has been held proved without legal evidence. We find it difficult to uphold the order of punishment and in our view, learned Single Judge in observing that procedure as per rules has been followed by enquiry authority is contrary to record, hence cannot be sustained.

17. In the result, appeal is allowed. Impugned judgment and order dated 29.01.2013 passed by learned Single Judge in

Writ Petition No. 4404 (SS) of 2008, Jai Prakash Narain Srivastava Vs. U.P. State Food and Essential Commodities Corporation Limited and other is hereby set aside. We also set aside punishment order dated 03.08.2007 and appellate order dated 06.05.2008. However, looking to the nature of seriousness of charge imposed against petitioner, we permit respondents to initiate proceedings afresh against petitioner from the stage after, receipt of reply from the petitioner. In case such decision is taken by respondents within two months from today, they shall complete proceedings within six months thereafter. During such proceeding, petitioner shall remain under suspension and shall be paid subsistence allowance. The decision with regard to arrears of salary shall be taken in the light of ultimate order passed by respondents. In case respondents decide not to initiate proceeding within time stipulated above, petitioner shall be entitled for all consequential benefits."

7. As would be evident from a reading of paragraph no. 17 of the aforesaid judgment dated 11.07.2017, a timeline was fixed by the Division Bench permitting the employer to proceed afresh from the stage of receipt of reply from the petitioner and a decision in this regard was to be taken within two months from 11.07.2017 i.e. that the date of judgment and, thereafter, the disciplinary proceedings had to be completed within six months, during which, the respondent-petitioner was to remain under suspension and was to be paid subsistence allowance. In case, the employer decided not to initiate proceedings, within the two months time stipulated in the said judgment, the respondent-petitioner was held entitled for all consequential benefits. Therefore, the time line of two months was also to be strictly adhered as consequence of non-adherence were also stipulated in the same judgment by the Division Bench. Of course, if a decision was taken to proceed afresh within the said timeline then within the next six months the disciplinary proceedings had to be completed.

8. Now, when we peruse the records, what we find is that, although, the appellant-corporation was represented before the Division Bench, which passed the Judgment dated 11.07.2017, no decision was taken by the appellants within the period of two months as noticed herein-above. In fact it is stated that an inquiry officer was appointed on 21.09.2017, which, apart from being beyond the timeline fixed by the Division Bench, We do not find any such order dated 21.09.2017 having been brought on record of the Writ Court or before us. We repeatedly asked the learned counsel for the appellants to kindly take us through the said order, so as to enable us to ascertain as to whether it is an order containing a decision to proceed afresh in terms of the Judgment dated 11.07.2017 or not and in fact whether any such order exists but no such order could be placed before us instead a document annexed at Page No. 262 of the appeal was relied wherein the said order dated 21.09.2017 is said to have been mentioned.

9. Be that as it may, the fact is that two months timeline was not adhered and no application was submitted by the appellants seeking extension of the said timeline before the Court.

10. The contention of Shri Sudeep Seth, learned Senior Advocate appearing for the appellants that such judgments were not uploaded immediately cannot be accepted for the reason the judgment itself prescribed the timeline of two months from 'today' meaning thereby the date of dictation of the judgment. The appellants never filed any application for clarification or extension of time before the Bench which passed the said judgment though it could have done so. In fact, on being asked, as to when was the certified copy of the said judgment dated 11.07.2017 applied by the appellants, no reply was forthcoming.

11. We also asked the learned Senior Counsel as to whether the counsel who had appeared before the Division Bench on behalf of the appellants had intimated the appellants about the said decision, no reply could be furnished in this regard also. This is clearly a lapse on the part of the appellant.

12. In fact what appears to be the case is that the appellants came into action only after receipt of a certified copy of the judgment dated 11.07.2017 furnished by the respondent-petitioner along with a representation on 22.07.2017.

13. On 31.07.2017 the respondent-petitioner attained the age of superannuation.

14. Once the judgment dated 11.07.2017 was passed quashing the dismissal order, even if on the ground of violation of procedural provisions and natural justice with liberty to proceed afresh as already indicated, the fact of the matter is that consequent to such quashing of dismissal order the respondent-petitioner was to be treated as in service and any disciplinary proceedings could have been initiated under the relevant disciplinary Rules only by treating him as in service, but we do not find any order having been issued formally reinstating him in service or treating him in service. In fact the counsel for the respondent-petitioner Shri Shachindra Pratap Singh says that the appellants never reinstated him in service nor paid him subsistence allowance, as asserted before the Writ Court.

15. Be that as it may, the fact of the matter is that once the respondent-petitioner, who was to be treated in service and for all practical and legal purposes was in service, attained the age of superannuation on 31.07.2017, then, such proceedings, if at all, could go on, only if there was a provision in the Service Rules applicable to the appellant-corporation permitting such proceedings after retirement, as,

otherwise, master-servant relationship ceases on retirement and no punishment can be imposed thereafter, however, no such Rule has been placed before us under which the disciplinary proceedings could continue in the corporation for the purposes of imposition of punishment, ever after retirement.

16. We asked the learned counsel for the appellants as to whether there was any provision in the Corporation under which such proceedings could continue against its employee analogous to the provision contained in Regulation 351-A of Civil Service Regulations applicable to State Government employees or not, Shri Sudeep Seth, learned Senior Counsel on the instructions of Shri Kaushlendra Tewari, submits, that at that time there was no such provision though, subsequently i.e. in 2023 provisions similar to Regulation 351-A of CSR have been adopted/inserted the Rules. Nevertheless considering the liberty granted by the Division Bench even if we ignore this aspect of the matter and take the view that the proceedings could continue in view of the liberty granted by the Division Bench of this Court which was never put to challenge by the respondent-petitioner, who did not file any petition asserting that such proceedings could not go on for imposition of any punishment after he had attained the age of superannuation on 31.07.2017, ultimately what comes out is that the timelines stipulated by the Judgment dated 11.07.2017 had to be strictly adhered.

17. The legal position in this regard has been settled by a Full Bench of this Court in the case of **Abhishek Prabhakar Awasthi vs. New India Assurance Company Limited and Others** reported in **2013 SCC OnLine All 14267 : (2014) 6 All LJ 662 (FB)**. This decision came up for consideration before Hon'ble Supreme Court in the case of **State of U.P.**

vs. Ram Prakash Singh in Civil Appeal No.14724 of 2024, decided on 23rd April, 2025 reported in **2025 SCC OnLine SC 891** and found affirmation subject to certain further observations in this regard. Relevant paragraphs of the said case of *Ram Prakash Singh (Supra)* are quoted herein-below:-

"61. *The fourth issue requires us to consider Abhishek Prabhakar Awasthi (supra), a decision of the Full Bench of the High Court. Being a Full Bench decision, obviously the Tribunal as well as the Division Bench of the High Court was bound thereby. The Full Bench rendered such decision upon considering, inter alia, the decision of this Court in Union of India v. Satyendra Kumar Sahai. We may only notice the answers to the questions referred to the Full Bench, reading as follows:*

"(A) Question No. (a) : We hold that if an enquiry is not concluded within the time which has been fixed by the Court, it is open to the employer to seek an extension of time by making an appropriate application to the Court setting out the reasons for the delay in the conclusion of the enquiry. In such an event, it is for the Court to consider whether time should be extended, based on the facts and circumstances of the case. However, where there is a stipulation of time by the Court, it will not be open to the employer to disregard that stipulation and an extension of time must be sought;

(B) Question No. (b) : The judgment of the Supreme Court in the case of Suresh Chandra (supra) as well as the judgment of the Division Bench of this Court in the case of Satyendra Kumar Sahai (supra) clearly indicate that a mere delay on the part of the employer in concluding a disciplinary enquiry will not ipso facto nullify the entire proceedings in every case. The Court which has fixed a stipulation of time has jurisdiction to extend the time and it is open to the Court, while exercising that jurisdiction, to consider whether the delay has been satisfactorily explained. The Court can suitably extend time for conclusion of the enquiry either in a proceeding instituted by the employee challenging the enquiry on the ground that it was not completed within the stipulated period or even upon an independent application moved by the employer. The Court has the inherent jurisdiction to grant an extension of time, the original stipulation of time having been fixed by the Court itself. Such an extension of time has to be considered in the interests of justice balancing both the need for expeditious conclusion of the enquiry in the interests of fairness and an honest administration. In an appropriate case, it would be open to the Court to extend time suo motu in order to ensure that a serious charge of misconduct does not go unpunished leading to

a serious detriment to the public interest. The Court has sufficient powers to grant an extension of time both before and after the period stipulated by the Court has come to an end”.

62. *While affirming the aforesaid view of the Full Bench, we would like to provide clarification on certain points not touched by such bench. First, in view of unseen institutional hurdles that can slow down swift action, it may not always be possible for the disciplinary authority in each such case where a fixed time has been stipulated by a tribunal/court to conclude the proceedings to apply and seek extension of time before expiry of such time although there can be no gainsaying that applying and obtaining an extension before expiry is eminently desirable. In exceptional cases, even after expiry of the stipulated time, such an application can be moved; and, depending on the cause shown for inability or failure to conclude the proceedings within the time stipulated and also for not applying for extension before expiry, the tribunal/court may, in its discretion, allow or reject the prayer for extension. If the application is rejected, the proceedings cannot be carried forward unless a superior court, reversing the order of rejection, permits the disciplinary authority to so proceed. Secondly, if the delinquent employee objects to continuation of proceedings beyond the time stipulated, the disciplinary authority without proceeding further ought to apply for extension of time and may not go ahead till such time its prayer for extension is granted on such application. Proceeding despite objection and without there being an extension could give rise to apprehensions of bias. Therefore, applying for extension upon halting the proceedings awaiting order on the application would be an advisable course of action to balance the interests of both the employer and the employee. Thirdly, even if the delinquent employee has not objected to continuation of proceedings beyond the time stipulated by the tribunal/court but before the final order is passed in the proceedings, the disciplinary authority would be bound to seek and obtain extension of time. This is for the simple reason that the sanctity of the orders of tribunals/courts cannot be disrespected by errant parties. The dignity of the judicial process would be seriously eroded and there would be nothing left of the rule of law if orders of tribunals/courts, validly made, are disobeyed and the disobedience is encouraged by being indulgent. Finally, we hasten to add that if a tribunal/court stipulates a fixed time by which an enquiry or proceedings for disciplinary action ought to be concluded coupled with a rider that, in default, the enquiry/proceedings will stand lapsed, the disciplinary authority in such a case would cease to have the jurisdiction to proceed further unless, of course, citing genuine grounds, a recall of such default clause is sought and obtained to proceed further in accordance with law.*

63. *We also hold that continuation of disciplinary proceedings beyond the time stipulated by a tribunal/court could invite interdiction if no bona fide attempt is shown to have been made to seek an extension of time. However, much would depend on the facts of each case and it may not be possible to lay down a common formula applicable to each case. In an exceptional case,*

the tribunal/court would have the discretion to overlook the laxity and make such direction as it deems fit in the circumstances.

64. *The answer to the fourth issue, in view of our discussion, has to be in favour of the respondent and against the appellant. Without an extension of time, no order of punishment could have been validly made and the grievance of the respondent in this behalf is absolutely legitimate."*

18. After the alleged appointment of an inquiry officer, the latter intimated the respondent-petitioner about his appointment vide letter dated 12.10.2017, however, after such intimation no further date, time and place were ever intimated to the respondent-petitioner for his appearance and participation in inquiry proceedings nor was any evidence adduced and considered in his presence. This fact, on being asked, was very fairly accepted by the learned Senior Advocate appearing for the appellants, so did Shri Kaushlendra Tewari assisting him. In fact there is nothing on record to show that the proceedings even after the liberty granted by the Division Bench vide judgment dated 11.07.2017 were held in consonance with the principles of natural justice and the provisions of law applicable meaning thereby the appellants did not learn any lesson from the judgment dated 11.07.2017 by which the earlier dismissal was quashed on these very grounds i.e. non-adherence to principles of natural justice and procedural law.

19. We further asked the counsel for the appellants as to whether any inquiry report submitted by the inquiry officer, which, as claimed by the appellants, is dated 04.12.2017 was ever furnished to the respondent-petitioner so as to enable him to challenge the findings therein, our attention was invited to a document annexed at Page No.345, however, we find that this is not a document asking the respondent-petitioner to show-cause against the findings recorded by the inquiry officer. This is a communication to the respondent-petitioner to appear on 03.02.2018 to place his version i.e. an

opportunity of personal hearing. The inquiry report is not annexed with this document. There is nothing on record to show that the inquiry report allegedly dated 04.12.2017 was ever furnished to the respondent-petitioner with an opportunity to show-cause against it. Of course, the respondent-petitioner submitted a letter dated 02.02.2018 with reference to the communication dated 30.01.2018 but then in this letter he has merely expressed his version and also raised an objection with regard to non-adherence of the timeline fixed by the Division Bench vide judgment dated 11.07.2017 and the invalidity of the proceedings on the said count. Similar objection was raised by him earlier also to the inquiry officer, all of which went unheeded.

20. At no point of time the appellants moved any application before the Bench in the writ petition wherein the timeline had been fixed for extension of time. This only goes to show the lackadaisical and casual manner in which the entire proceedings were held.

21. We may point out at this very stage that the disciplinary proceedings at hand were initiated in 2006 and thereafter all along even after quashing of the first dismissal order the conduct of the appellants has been far from reasonable and fair. In fact, it appears that they were bent upon passing an order of dismissal dehors the timeline fixed by the Division Bench and also ignoring the very grounds on which the first dismissal order was quashed. We say no more.

22. After submission of letter dated 02.02.2018 but without taking into consideration the objections raised by the respondent-petitioner with regard to non-adherence of the Division Bench Judgment and the timeline prescribed therein, an order of dismissal was passed on 20.03.2018. Here again,

exceeding the period of six months prescribed by the Division Bench, that too, without filing any application seeking extension of time for facilitating passing such an order of dismissal which is clearly dehors the Full Bench Decision of this Court which had been rendered in 2013 itself.

23. We have gone through the Full Bench decision in the case of ***Abhishek Prabhakar Awasthi (supra)*** and its affirmation by the Hon'ble Supreme Court in the case of ***Ram Prakash Singh (supra)*** and have also taken into consideration all the factors mentioned in the said judgments and on a cumulative consideration of all the factors and after taking into consideration the impugned judgment as also the reasons given therein for quashing the dismissal order, we are of the opinion that the dismissal order was apparently bad for violation of the Division Bench Judgment dated 11.07.2017 and the law declared by the Full Bench in the case of ***Abhishek Prabhakar Awasthi*** as affirmed by the Hon'ble Supreme Court in ***Ram Prakash Singh (supra)***. No such ground has been placed before us which could persuade us to extend such timeline or condone the same *suo moto* and *post facto*. The respondent-petitioner has suffered a lot on account of pendency of the proceedings for such a long period and has not been treated fairly and reasonably.

24. For all these reasons, we do not find any merit in this appeal, which is, accordingly, **dismissed**.

(Abdhesh Kumar Chaudhary,J.) (Rajan Roy,J.)

January 13, 2026
Praveen