



2026:AHC:12882

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 2518 of 2024

Videsh Kumar

.....Petitioner(s)

Versus

State Of U.P. & 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Kamlakar Pal, Shiv Kumar Pal
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Rajesh Sharma (AoR A/R 0400/2012) holding brief of Sri Kamlakar Pal, learned counsel for the writ petitioner and Sri R.S. Umrao, learned Standing Counsel for the State.

2. A joint statement has been made by learned counsel for the parties that they do not propose to file any affidavit.

3. The case of the writ petitioner that he was appointed on the post of Sub Inspector in the year 2017, however, owing to a complaint lodged against the writ petitioner for commission of misconduct, a preliminary inquiry was conducted against the writ petitioner, he was suspended on 04.05.2022, a charge sheet came to be served upon the writ petitioner pursuant where to the Inquiry Officer tendered his inquiry report dated 20.12.2022 holding the charges to be proved and recommended for imposition of the punishment of dismissal as per the provisions contained under Rule 4(1)(a) of the Uttar Pradesh Police Officers of Subordinate Rank (Punishment and Appeal) Rules, 1991. A show cause notice came to be issued to the writ petitioner along with the inquiry report on 23.12.2022, the writ petitioner tendered his reply to the show cause notice thereafter, on 13.01.2023, an order came to be passed dispensing with the services of the writ petitioner against which the writ petitioner preferred an appeal before the Additional Director, Police, Meerut Zone, Meerut on 13/14.01.2023 which was dismissed on 27.04.2023, the writ petitioner preferred a revision on 17.05.2023 which was rejected on 13.09.2023.

4. Questioning the said orders, the present writ petition has been preferred.

5. Learned counsel for the writ petitioner has submitted that the writ petitioner has not committed any misconduct so as to warrant issuance of charge sheet and conduction of the departmental proceedings culminating into the impugned orders. Further submission is that the entire disciplinary proceeding stood conducted against the writ petitioner behind the back in utter violation of the provisions contained under the 1991 Rules. However, according to the learned counsel for the writ petitioner, the core and fundamental issue which goes to the root of the matter, which vitiates the entire enquiry proceedings is the fact that the enquiry officer in his enquiry report dated 20.12.2022 had not only proceeded to hold the writ petitioner guilty of the said charges, however, it has also proposed the punishment of dismissal in view of the provisions contained under Rule 4(1)(a)(i) of 1991 Rules. Submission of learned counsel for the writ petitioner is that it is not within the domain of the enquiry officer to propose punishment as what the enquiry officer is to do is to just give its finding whether the allegations in the form of charges in the charge sheet stands proved or not and rest is to be done by the Disciplinary Authority while exercising its discretion in that regard. He seeks to rely upon the decision of the Hon'ble Apex Court in the case of **State of Uttaranchal vs. Kharak Singh, 2008 (8) SCC 236** as well as the order passed by a coordinate Bench of this Court in **Writ-A No.19952 of 2019, Mohammad Miyan vs. State of U.P. and others**, decided on 21.08.2025. Learned counsel for the writ petitioner submits that the order impugned be set aside and the matter be remitted back to the authority to proceed afresh strictly in accordance with law.

6. Sri R.S Umrao, learned Standing Counsel on the other hand submits that the enquiry proceedings have been conducted as per the Rules and there is no violation of principles of natural justice. He submits that due opportunity was accorded to the writ petitioner to participate in the enquiry proceeding and the Enquiry Officer after finding the charges to be proved, had submitted his enquiry report, however, he submits that it is not within the domain of the enquiry officer to propose punishment.

7. I have heard the submissions so made across the Bar and perused the record carefully.

8. Apparently, the writ petitioner was charge sheeted on 11.03.2022. A

preliminary enquiry was set up followed by a regular enquiry and on 20.12.2020, the enquiry officer submitted his enquiry report holding the writ petitioner/delinquent to be guilty while observing as under:-

"अतएव उपरोक्त अभिलिखित कथनों पत्रावली पर उपलब्ध साक्ष्यों व परिस्थितियों को दृष्टिगत रखते हुये मैं पीठासीन अधिकारी निलम्बित उपनिरीक्षक श्री विदेश कुमार उपनिरीक्षक श्री विदेश कुमार का उ०प्र० पुलिस में उपनिरीक्षक के पद पर सेवायोजन शून्य मानते हुए उनको कपट एवं छल पूर्वक कूटरचित दस्तावेज तैयार कराकर अनैतिक लाभ प्राप्त किये जाने के उद्देश्य से तथ्यों को छिपाकर कूटरचित दस्तावेजों के आधार पर उ०प्र० पुलिस विभाग में उपनिरीक्षक के पद पर सेवायोजन प्राप्त करने का पूर्णतः दोषी पाता हूँ। आरोपी निलम्बित उपनिरीक्षक ना०पु० पीएनओ-152281854 श्री विदेश कुमार को उ०प्र० अधीनस्थ श्रेणी के पुलिस अधिकारियों की (दण्ड एवं अपील) नियमावली 1991 के नियम 4 दण्ड- (1) (क) दीर्घ शास्तियां (एक) के अन्तर्गत पदच्युत किये जाने संस्तुति करता हूँ।

साथ ही मा० उच्च न्यायालय द्वारा रिट याचिका संख्या 5960/2022 में पारित आदेश दिनांकित 18.05.22 एवं 27.05.22 के समादर उ०प्र० अधीनस्थ श्रेणी के पुलिस अधिकारियों की (दण्ड एवं अपील) नियमावली 1991 के नियम 14 (1) के अन्तर्गत विभागीय कार्यवाही के मध्य प्रेषित आरोप पत्र दिनांकित 11.03.2022 के सम्बन्ध में दोष सिद्ध होने पर दण्डित किये जाने का निर्णय लेने का अधिकार पुलिस उपमहानिरीक्षक स्तर के प्राधिकारी को है।

अतः यह निर्णय सक्षम अधिकारी के अनुमोदन के उपरान्त प्रभावी होगा।"

9. The Disciplinary Authority based on the enquiry report, agreeing with the same had proceeded to pass order dated 13.01.2023 dismissing the writ petitioner from service, against which an appeal came to be preferred which was rejected on 27.04.2013 and a revision on 13.09.2023. As a matter of fact, the services of the petitioner are governed under the provisions of the U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991. Rule 14 reads as under: -

"14(1) Procedure for conducting departmental proceedings- (1) subject to the provisions contained in these rules, the departmental proceedings in the case referred to in sub-rule (1) of rule 5 against to the police officers May be conducted in accordance with the procedure laid down in appendix- I "

10. Appendix -1 pertains to the procedure relating to conduct of departmental proceedings against police officer reads as under:-

APPENDIX-1

PROCEDURE RELATING TO THE CONDUCT OF DEPARTMENTAL PROCEEDINGS AGAINST POLICE OFFICER

Upon institution of a formal enquiry such police officer against whom the enquiry has been instituted shall be informed in writing of the grounds on which it is proposed to take action and shall be afforded an adequate opportunity of defending himself. The

grounds on which it is proposed to take action shall be used in the form of a definite charge or charges as in Form I appended to these Rules which shall be communicated to the charged police officer and which shall be so clear and precise as to give sufficient indication to the charged police officer of the facts and circumstances against him, he shall be required, within a reasonable time, to put in, in a written statement of his defence and to state whether he desires to be heard in person. If he so desires, or if the Inquiry Officer so directs an oral enquiry shall be held in respect of such of the allegation as are not admitted. At that enquiry such oral evidence will be recorded as the Inquiry Officer considers necessary. The charged police officer shall be entitled to cross-examine the witnesses, to give evidence in person and to have such witnesses called as he may wish:

Provided that the Inquiry Officer may for sufficient reasons to be recorded in writing, refuse to call a witness. The proceedings shall contain a sufficient record of the evidence and statement of the findings and the ground thereof. The Inquiry Officer may also separately from these proceedings make his own recommendation regarding the punishment to be imposed on the charged police officer."

11. A close reading of the enquiry report would reveal that the enquiry officer in the zeal of proving the charges against the delinquent employee had exceeded its jurisdiction while proposing punishment, that too by referring to the specific provisions contained under the 1991 Rules, i.e. Rule 4(1)(a)(i). Certainly, the task which has been assigned to the Enquiry Officer is to conduct enquiry proceedings while recording its finding whether the charges are proved or not against the delinquent employee and it is the prerogative and jurisdiction while exercising discretion of the Disciplinary Authority to pass punishment order if there are variety of punishments provided in the Rules. In **State of Uttaranchal vs. Kharak Singh (supra)**, the Hon'ble Apex Court has held as under: -

"18. ... Though there is no specific bar in offering views by the enquiry officer, in the case on hand, the enquiry officer exceeded his limit by saying that the officer has no right to continue in the government service and he has to be dismissed from service with immediate effect."

12. Further in **Mohammad Miyan (supra)**, a coordinate Bench of this Court has observed as under:-

"14. It is well settled principle of law that when statute provides for a thing to be done in a particular manner, it should be done in that manner alone (Krishna Rai v. Banaras Hindu University and others (2022) 8 SCC 713).

15. In such above view of the matter, the enquiry officer's recommendation of the preposed punishment from dismissal of service as well as denial of salary on principle of 'No Work No Pay' cannot be approved of. The report also deserves to be set aside and so also consequential order of dismissal of the petitioner and so also the order passed by the appellate authority and order of authority sitting in revision also deserve to be set aside."

13. Since the said discrepancy goes to the root of the matter, which vitiates the entire proceedings, thus in the opinion of the Court, it is not justified or justifiable for the enquiry officer to propose punishment in that regard.

14. Thus writ petition succeeds and is **allowed**. The orders dated 13.01.2023, 27.04.2023 and 13.09.2023 are hereby quashed.

15. The matter is remitted to the disciplinary authority to get the enquiry report in the matter afresh by appointing enquiry officer other than officer who had previously held, the enquiry within two months of production of certified copy of this order. The petitioner shall be participating in the enquiry. The enquiry shall start from the stage of reply already submitted by petitioner and enquiry report shall be submitted within a maximum period of two months from the date of appointment of enquiry officer. The disciplinary authority, thereafter shall proceed to take appropriate decision in the matter within a further period of one month in compliance of principles of natural justice. The status of the petitioner in the meanwhile shall continue to remain the same as was at the time of passing of order of punishment by the disciplinary authority.

(Vikas Budhwar,J.)

January 19, 2026

Rajesh