



2026:AHC:18575

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 16047 of 2025

Om Prakash Yadav

.....Petitioner(s)

Versus

The State Of U.P. Through Its Principal Secretary,
Rural Development And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Pradeep Kumar Singh
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Pradeep Kumar Singh, learned counsel for the writ petitioner and Sri Pramod Kumar Srivastava, learned Additional Chief Standing Counsel for the State.

2. Since counter and rejoinder have been exchanged between the parties and the counsel for the rival parties and the counsel for the rival parties do not propose to file any further affidavit and the writ petition is being decided at the fresh stage.

3. The case of the writ petitioner is that he was appointed on the post of Block Development Officer while the writ petitioner was posted as Block Development Officer by virtue of the order dated 08.09.2024, he was attached to the Headquarters which was subject matter of challenge in Writ-A No. 15684 of 2024 which came to be disposed of on 11.03.2025 while quashing the order dated 09.09.2024. thereafter, a charge sheet came to be served upon the writ petitioner on 09.01.2025 containing as many as 4 charges, the writ petitioner tendered his reply to the charge sheet on 01.03.2025. As per the writ petitioner, the Inquiry Officer submitted the inquiry report to the Disciplinary Authority dated 06.06.2025 holding that none of the charges stood proved against the writ petitioner, however, the State Government proceeded to pass the order dated 27.08.2025 cancelling the inquiry report dated 06.06.2025 appointing another Inquiry Officer being

Joint Development Commissioner, Prayagraj Mandal, Prayagraj to conduct inquiry and to tender his report.

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

5. Learned counsel for the writ petitioner has sought to argue that the order impugned cannot be sustained for a single moment. Elaborating the said submission, it is contended that though Rule 9 of the Uttar Pradesh Government Servant (Discipline and Appeal) Rule, 1999 provides for action on the inquiry report but the disciplinary authority is though vested with the power with regard to recording of the reasons remit the case of re-inquiry to the same or any other Inquiry Officer under intimation to the Government Servant, however, the writ petitioner has not been intimated in this regard, which is a mandatory condition as per Rule 9(1) of the U.P. Government Servant (Discipline and Appeal) Rule, 1999. Further submission is that the power so vested with the appointing/disciplinary authority is not unfettered but it is subject to certain caveats particularly when the inquiry has been conducted by the authority not competent and the charges in the charge sheet do not fall in the category of definite charge or that the charge sheet is not approved by the disciplinary authority, in case, the charge sheet has not been served upon the authority or the Government Servant was not permitted to produce witnesses in his defence or oral evidence is not recorded despite the request. According to the writ petitioner, the entire basis for rejecting the earlier inquiry report is to be in favour of the writ petitioner was that he did not suit the disciplinary authority in that regard. Reliance has been placed upon the decision of the Coordinate Bench in **Ajai Kumar Vs. State of U.P. (2022) 0 Supreme (All) 1418**, **Atul Darbari Vs. State of U.P. (2016) 0 Supreme (All) 2275**.

6. Sri P.K. Srivastava, learned Additional CSC on the basis of the instructions so received by him as well as the counter affidavit be filed by the respondent has sought to argue that there are grave and serious allegations against the writ petitioner and the inquiry so conducted, report whereof dated 06.06.2025 was not as per law. However, he acknowledges

the fact that there has been no intimation made to the writ petitioner under Rule 9(1) of the U.P. Government Servant (Discipline and Appeal) Rules, 1999, according to him, the order be set aside, matter be remitted back to pass a fresh order.

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

8. Facts are not in issue. It is not in issue that the writ petitioner is a Government Servant whose service stands governed under the provisions of U.P. Government Servant (Discipline and Appeal) Rules, 1999. Parties are in agreement that post appointment of the Inquiry Officer after serving of the charge sheet, an inquiry report came to be submitted by the Inquiry Officer on 06.06.2025 holding the charges not proved against the writ petitioner which was not found appropriate by the disciplinary authority who directed for fresh inquiry to be conducted by another Inquiry Officer. Rule 9 of the U.P. Government Servant (Discipline and Appeal) Rules.

9. The effect and the impact of Rule 9(1) came up for consideration and in para 22, the following was observed.-

"22. Rule 9 prescribes action on the enquiry report. Rule 9(1) provides that the Disciplinary Authority may, for reasons to be recorded in writing, remit the case for re-inquiry to the same or any other Inquiry Officer under intimation to the charged Government servant. The Inquiry Officer shall thereupon proceed to hold the inquiry from such stage as directed by the Disciplinary Authority, according to the provisions of Rule 7. Rule 9 (2) provides that the Disciplinary Authority shall, if it disagrees with the findings of the Inquiry Officer on any charge, record its own findings thereon for reasons to be recorded. Rule 9 (3) provides that in case the charges are not proved, the charged Government servant shall be exonerated the Disciplinary Authority of the charges and informed him accordingly. Rule 9 (4) provides that If the Disciplinary Authority, having regard to its finding on all or any of charges is of the opinion that any penalty specified in Rule 3 should be imposed on the charged Government Servant, he shall give a copy of the inquiry report and his finding recorded under sub-rule (2) of Rule 9 to the charged Government Servant and require him to submit his representation if he so desires, within a reasonable specified time. The Disciplinary Authority shall having regard to all the relevant records relating to the inquiry and representation of the charged Government Servant, if any, and subject to the provisions of Rule 16 of these rules, passes a reasoned order imposing one or more

penalties mentioned in Rule 3 of these and communicate the same to the charged Government Servant."

10. Further in **Ajay Kumar (supra)**, the following was observed.-

"25. It appears from rules of 1999 that same is a self-contained code and the procedure has been prescribed for holding disciplinary inquiry and awarding punishment. After the submission of the Inquiry report where charges are proved, the disciplinary authority proceeds to examine the inquiry report and in case he does not find any infirmity with the enquiry report he shall proceed in terms of rule 9(4) and give a show cause notice to the Government servant requiring him to submit his response to the said report, and on receiving the same, and after consultation with the U.P Public Service Commission, where necessary, may impose any penalty as provided in Rule 3.

26. In case he finds that the inquiry has been held in violation of rule 7, where either the Government servant has not been given adequate opportunity of hearing or for any other cogent reason, the disciplinary authority after recording reasons for not accepting the enquiry report, may order a re-inquiry under Rule 9(1).

27. As is discernible from rule 9(1) the infirmity in the inquiry report, which is the basis for ordering re-enquiry, must be one in relating to violation of the specific procedure provided under Rule 7 of the rules of 1999, in conduct of the enquiry. This aspect is clear from the perusal of rule 9(1) where it is provided that the "inquiry officer shall thereupon proceed to hold inquiry from such stage as directed by disciplinary authority, according to the provisions of rule 7". Therefore, the disciplinary authority can direct for re-enquiry from the stage of infirmity in the enquiry proceedings as pointed out by him in his order passed under rule 9(1) of the rules of 1999. In exceptional circumstances where there exists serious allegation against the enquiry officer, of bias or misconduct in conducting the enquiry, the disciplinary authority after recording his satisfaction can also invoke rule 9(1).

28. In where the inquiry is conducted:-

- i. By an authority not authorised by the disciplinary authority to conduct the inquiry, or*
- ii. If the charges in the charge sheet do not fall in the category of "definite charge" or that the charge sheet is not approved by the Disciplinary authority, or*
- iii. In case the charge sheet does not give adequate time for reply or is less than 15 days from the charge sheet, or there is no recital that the Government servant may cross examine any witness mentioned in the charge sheet or to produce evidence in his defence, or*
- iv. In case the charge sheet is not duly served upon the Government servant, or*
- v. The Government servant is not permitted to produce witnesses in his defence, or his*

oral evidence is not recorded despite his request, or;

vi. He may be of the opinion that proper opportunity has not been given to the Government servant to defend himself are some of the instances in which the disciplinary authority can invoke the powers under rule 9(1) of rules of 1999.

29. The natural corollary to invocation of power and the rule 9(1) of the Rules of 1999 is that the previous inquiry report is set aside, when the re-inquiry is ordered. On passing of an order under rule 9(1), the previous inquiry report becomes non est and cannot be used against the Government servant in the subsequent stage of inquiry. The reasons which must be recorded by the disciplinary authority are about the defect in the enquiry proceedings. Such a defective inquiry which has been so declared by the disciplinary authority, while passing the order under rule 9(1), ceases to exist and hence becomes unactionable, and cannot be relied upon."

11. Since the writ petitioner has not been put to notice as mandated under Rule 9(1) of the U.P. Government Servant (Discipline and Appeal) Rules, thus, the order impugned cannot be sustained.

12. Accordingly, the writ petition is being decided in the following terms.-

(a) the order 27.10.2025 passed by first respondent, Secretary, Rural Development, U.P., Lucknow is set aside; (b) matter stands remitted back to the authority to pass a fresh order strictly in accordance with law.

13. With the aforesaid observations, the writ petition stands **disposed of**.

January 27, 2026
Rajesh

(Vikas Budhwar,J.)