



2026:AHC:9610

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 278 of 2026

Krishnanand Sharma

.....Petitioner(s)

Versus

State Of Up And 4 Others

.....Respondent(s)

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

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

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

2. A statement has been made by Sri P.K. Srivastava, learned Addl. Chief Standing Counsel that he is well equipped with the instructions and is in a position to argue the case. He does not propose to file any counter affidavit and he further submits that the writ petition be decided on the basis of the documents available on record.

3. With the consent of the parties, the writ petition is being decided at the fresh stage.

4. The case of the writ petitioner is that his father namely Late Feko Sharma, who was posted as Boring Technician, who passed away in the year 1988 during his service period. The writ petitioner was accorded compassionate appointment on 26.12.1990 and he joined in the office of the Executive Engineer, Miner Irrigation Division, Maharajganj on the post of Peon. According to the writ petitioner, he was entitled to be considered for the promotion on the post of Junior Clerk. A merit-list was published, in which the name of the writ petitioner found place at Sl. no.1. As per Uttar Pradesh Miner Irrigation Department (Clerical Cadre/ Accountant and Audit) Rules, 1992, the claim of the writ petitioner was considered under the quota earmarked and on 03.06.2024, he was accorded promotion on the post of Junior Assistant and he tendered his joining on 03.07.2024. A complaint came to be issued regarding entitlement of the writ petitioner and a notice was issued to the complainant. He was heard. However, without hearing the

writ petitioner, on 20.12.2025, order impugned came to be passed by Executive Engineer, Miner Irrigation Division, Deoria/ Respondent No.5, cancelling the promotion to the writ petitioner on the post of Junior Clerk.

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

6. Today, instructions have been produced by Sri Pramod Kumar Srivastava, learned Addl. Chief Standing Counsel of the Executive Engineer, Miner Irrigation Division, Deoria dated 09.09.2025.

7. Learned counsel for the writ petitioner has sought to argue that the order impugned cannot be sustained, as the same has been passed unilaterally behind the back of the writ petitioner without putting to notice to the writ petitioner. Further submission is that there are two grounds premised in the impugned order, firstly the order of promotion of the writ petitioner had been passed during period of Model Code of Conduct for General Elections and secondly, the persons, who were appointed on the supernumerary post of Junior Assistant their right for absorption has not been considered. Learned counsel for the writ petitioner submits that one Anoop Kumar Gupta had also preferred Writ Petition No.10324 of 2024 to absorb and to consider his claim for appointment on the post of Junior Assistant, but the said writ petition is pending till date and the promotion of the writ petitioner has not been questioned.

8. Sri Pramod Kumar Srivastava, learned Addl. Chief Standing Counsel submits that the order impugned is perfectly valid and in accordance with law and no fault whatsoever can be attributed in that regard. He submits that the promotion of the writ petitioner is de hors the Rules as there are other deserving candidates, who are to be accorded promotion and appointment. Further submission is that merely because the writ petitioner was not heard cannot be a ground to vitiate the order.

9. I have heard the submissions so made across the Bar and perused the records carefully.

10. Facts are not in issue. It is not in issue that the writ petitioner was appointed on the post of peon on compassionate basis. Thereafter on 03.06.2024, he was promoted on the post of Junior Clerk and he was accorded joining on 03.07.2024. A bare look of the order impugned would reveal that the same has been passed without putting to notice to the writ

petitioner. On a pointed query, being raised to the learned Addl. Chief Standing Counsel, whether the writ petitioner was put to notice, the answer is in negative. It is the settled law that any order involving the civil consequences can only be passed after putting to notice the affected persons and seeking its reply and consideration of the same.

11. Importantly, the said exercise is lacking. It is also not forthcoming from the order impugned that it is a case of fraud, concealment or misrepresentation. Once the position being so, it was incumbent upon the respondents to have issued notice and consider the contentions/ objections raised by the writ petitioner to the show cause notice. In any view of the matter, in case, the promotion of the writ petitioner was faulty, then at least opportunity ought to have been accorded to the writ petitioner to put forward his say. Thus the order impugned cannot be sustained. Accordingly, the writ petition is being decided in the following terms: -

(a) The order dated 20.12.2025 passed by the Executive Engineer, Miner Irrigation Division, Deoria/ Respondent no.5 is set aside.

(b) Matter stands remitted back to the fifth respondents, Executive Engineer, Miner Irrigation Division, Deoria to pass a fresh order.

12. At this stage, Sri Pramod Kumar Srivastava, learned Addl. Chief Standing Counsel submits that the show cause notice shall be issued to the writ petitioner by 13.02.2026. The writ petitioner shall submit his reply by 28.02.2026. Orders be passed by 31.03.2026.

13. With the said observations, the writ petition stands disposed of.

14. Instructions filed today are taken on record and marked as Appendix 'A'.

January 14, 2026

N.S.Rathour

(Vikas Budhwar,J.)