



2026:AHC:9806

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 287 of 2026

Ravindra Singh

.....Petitioner(s)

Versus

State Of Uttar Pradesh And Another

.....Respondent(s)

Counsel for Petitioner(s)

: Anil Kumar

Counsel for Respondent(s)

: C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Anil Kumar Pandey, learned counsel for the petitioner and Sri Rahul Malviya, learned Standing Counsel for the State.

2. A statement has been made at bar by learned Standing Counsel that the instructions are sufficient and he is in a position to argue the matter.

3. With the consent of learned counsel for the parties, the writ petition is being decide at fresh stage.

4. The case of the writ petitioner is that he is continuously working as Home Guard in District Gorakhpur since 28.02.1990 till 13.08.2025. In the year 2006, a first information report bearing No.279 of 2006 came to be lodged on 27.05.2006 under Sections 363 and 366 IPC. It was the case of the writ petitioner that though the investigation was done and the charge sheet came to be submitted but till date charges have not been framed.

5. Learned counsel for the petitioner submits that a show cause notice was issued why his candidature be not cancelled. The petitioner replied and now on 17.11.2025, the District Commandant, Home Guards, Gorakhpur had proceeded to reject the representation of the writ petitioner which the petitioner preferred pursuant to direction of this Court in Writ-A No.14212 of 2025. Questioning the order dated 17.11.2025 passed by the District Commandant, Home Guards, Gorakhpur, the present petition has been preferred.

6. Learned counsel for the petitioner has sought to argue that impugned order cannot be sustained for a single moment particularly when it seeks to

rely upon a Government Order dated 18.08.2023 wherein a classification has been made which has no nexus with reality to the criminal sections wherein the offences are below 7 years and 7 years and above. He submits that till date, charges have not been framed and appointment of the writ petitioner is since 1990 and merely on the basis of frivolous FIR lodged against him that too without getting any framing of the charges, the services of the petitioner could not have been dispensed with. He seeks to rely upon judgment of coordinate Bench of this Court in **Mahesh Singh Vs. State of U.P. and others, 2025 Lawsuit (ALL) 1026** wherein clauses 5, 6 and 8 were rendered *ultra vires*.

7. Learned Standing Counsel on the other hand submits that whatever might be, there are serious charges against the petitioner, however, he could not dispute the fact that clauses 5, 6 & 8 of the Government Order dated 18.08.2023 has been rendered *ultra vires*. He submits that the matter needs to be revisited.

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

9. Facts are not in issue. It is not in issue that the writ petitioner was inducted as a Home Guard in the year 1990 and thereafter owing to the lodging of a criminal case, a show cause notice came to be issued which was replied by the petitioner and thereafter a writ petition also came to be preferred whereby direction was given for deciding the representation stands rejected. Interestingly order impugned rests upon Government Order dated 18.08.2023. In **Mahesh Singh (supra)**, the following was observed:

"18. The proper cause would have been to suspend all those chargesheeted with criminal case, to hold proceedings departmentally as well and even reinstatement on case to case basis for the result of the proceedings. Since home guard force is a force of volunteers only, summary enquiry with show cause notice would have been sufficient. The government could have equally waited for the outcome of criminal proceedings by keeping such volunteers' duties in a suspended animation. Rules should not have discriminated those chargesheeted from those not chargesheeted during pendency of trial, if such volunteer is enlarged on bail.

19. One must remember, a mere chargesheet submitted by police does not mean conviction. Insofar as public perception is concerned, such person

who are sent to jail whether for petty offences or major offences, they are not placed in good esteem. Government, of course being a welfare state, should not form such perception and hence all those chargesheeted, if bailed out, should not be removed from service until conviction or may in the event of a disciplinary action as a result of summary enquiry on the principle of preponderance of probabilities. There may be cases where an employee gets implicated in a criminal case for act and conduct in discharge of official duties and where he may get implicated for private rival disputes resulting in first information report for alleged act of assault/ cheating/ fraud and forgery. In the case of former, a summary departmental enquiry may do justice both to the establishment and the employee while in the case of latter, one will have to await for outcome of trial. Hence, mere filing of chargesheet should not result in ipso facto termination of employment.

20. Likewise, therefore, the classification made under the government order vide clause 8 of it, stands hit by Article 14 of the Constitution for it being discriminatory deserves to be held ultra vires Article 14 of the Constitution.

21. In view of the above, therefore, classification made in clauses 5 & 6 of the government order dated 18th August, 2023 on the basis of chargesheet for offences with sentence of 7 years or less and those above 7 years is held discriminatory and arbitrary and is hit by Article 14 of the Constitution and hence deserves to be struck down to the extent of such discrimination.

22. Accordingly, clause 5 of the government order dated 18th August, 2023 to the extent it denies reinstatement of those home guard volunteers, while being enlarged on bail, who have been chargesheeted with offence having prescribed sentence of 7 years or above, is held ultra vires Article 14 of the Constitution and is struck down to that extent. Likewise clause 6 of the government order dated 18th August, 2023 that provides for immediate termination of home guard volunteers, who have been chargesheeted in offence having prescribed sentence of more than 7 years is held ultra vires Article 14 of the Constitution and is struck down to that extent. Similarly, clause 8 of the government order dated 18th August, 2023 to the extent it discriminates between the offence with 7 years and more sentence and those with 7 years and less sentence for the purposes of reinstatement of chargesheeted employees is held ultra vires Article 14 of the Constitution to the extent of such discrimination and is accordingly, struck down to that extent.

23. Petitioners are directed to make their representation to be decided for

the purposes of reinstatement on account of the fact that they have been enlarged on bail, within four weeks from today and their representations shall accordingly be dealt with and disposed of within a further period of six weeks. "

10. In view of the fact that clause 5, 6 & 8 of the Government Order dated 18.08.2023 have been rendered *ultra vires* in the judgment of **Mahesh Singh (supra)** and the classification so created with regard to the punishment with respect to the offences below 7 years and above 7 years have been held to be *ultra vires* then the matter needs to be revisited. Accordingly the order dated 17.11.2025 passed by respondent No.2- District Commandant, Home Guards, Gorakhpur is set aside and the matter stands remitted back to pass a fresh order within a period of two months from the date of presentation of a certified copy of this order.

11. With the aforesaid observation, the writ petition stands **disposed of**.

January 14, 2026
R.S. Tiwari

(Vikas Budhwar,J.)