



2026:AHC:8098

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 17131 of 2025

Pratap Singh

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Manoj Kumar Patel
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Manoj Kumar Patel, learned counsel for the petitioner and Sri Manish Kumar, learned Standing Counsel, who appears for State-respondents.
2. This court entertained this petition on 15.11.2025 while directing the learned Standing Counsel to obtain instructions and thereafter the matter was fixed for today. Instructions have been supplied by Sri Manish Kumar, learned Standing Counsel, submits that he is well equipped with the instructions and the instructions are self-sufficient for disposal of the writ petition and he does not propose to file any further affidavit and the petition be decided on the basis of the documents available on record, thus with the consent of the parties, writ petition is being decided at the fresh stage.
3. The case of the writ petitioner is that he was engaged as a home-guard, however, owing to lodging of a criminal case being FIR No. 0091 of 2023, under Section 34, 392 and 420 IPC came to be lodged by the writ petitioner, a show cause notice was issued and as per the order impugned, the writ petitioner was tendered his reply, however, his appointment has been cancelled and his services stand terminated on 21.11.2023 against which the writ petitioner preferred an appeal which was rejected by the Divisional Commandant Home Guards Meerut Division Meerut on 16.01.2025.
4. Questioning both the orders, the writ petitioner has been filed the present writ petition.
5. Learned counsel for the writ petitioner submits the order impugned cannot be sustained as the classification so made pursuant to a Government order

dated 18.08.2023 with regard to the offences wherein the punishment is 7 years or above and below 7 years had been declared *ultra vires* in **Writ-A No. 16186 of 2024 (Mahesh Singh v. State of U.P. and 3 Others)**, decided on 26.09.2025. He submits that merely pendency of a criminal case and submission of the chargesheet cannot be a ground to dis-entitle and dislodge the writ petitioner.

6. Learned Standing Counsel submits that the matter needs to be revisited by the third respondent, Divisional Commandant Home Guards District Meerut.

7. I have heard learned counsel for the parties and gone through the records carefully.

8. Facts are not in issue. It is not in issue that the writ petitioner was suspended and thereafter his services came to be dispensed with and appointment was cancelled on 21.11.2023 against which an appeal was preferred which was rejected on 16.01.2025. The entire basis of the order hinges upon the Government order dated 18.08.2023. In **Mahesh Singh (supra)**, it was observed as under:

"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."

9. Accordingly, the writ petition is being decided in the following manner:

(a). The impugned order dated 21.11.2023 passed by the respondent no. 3 and order dated 16.01.2025 passed by the respondent no. 2 is set aside.

(b). The matter stands remitted back to respondent no. 3 to pass fresh order strictly in accordance with law.

10. The quashing of the order impugned does not constitute that the writ petitioner would be automatically had reinstated that the same shall be subject to the final order to be passed therein.

11. Accordingly, the writ petition stands **disposed of**.

January 13, 2026

A. Prajapati

(Vikas Budhwar,J.)