



2026:AHC-LKO:14767-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 95 of 2026

Lal Bahadur

.....Appellant(s)

Versus

State Of U.P. Thru. Prin. Secy. Deptt. Of Revenue
U.P. Lko. And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	: Sajjad Husain, Badar Iftikhar, Kulsoom Firoz
Counsel for Respondent(s)	: C.S.C.

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Heard.

2. This is an appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 against the judgment and order dated 02.02.2026 passed in Writ-A No.1016 of 2026 [Lal Bahadur vs. State of U.P. & Ors.].

3. Although against an order calling for exchange of counter and rejoinder affidavits, a special appeal under Chapter VIII Rule 5 of the Rules, 1952 would ordinarily be not maintainable, however, in the Full Bench decision in '**Ashutosh Shrotiya & Ors. vs. Vice-Chancellor, Dr. B.R. Ambedkar University & Ors.**' passed in Special Appeal No.1140 of 2008, it has also been observed that where an application for interim relief is pressed even before a reply is filed on grounds of extreme urgency or on the ground that the situation would be irreversibly altered or that irretrievable injustice would result unless a protective order is passed, such a submission must be urged before the Single Judge and if such a submission is urged, it must be recorded and dealt with however briefly to obviate a grievance that an application for ad interim relief was pressed but not dealt with. Another portion of the judgment by the Full Bench is to the effect that if a party to the proceedings seeks to press an application for ad interim relief of a protective nature even before a counter affidavit is filed, on the ground that a situation of irretrievable injustice may result

or that its substantive rights would be adversely affected in the meantime, such an argument must be addressed before the Single Judge and if such an argument is urged, it should be dealt with however briefly, consistent with the stage of the case, by the Single Judge. It is for the Division Bench hearing the special appeal to consider whether the order decides matters of moment or is of such a nature that would affect the vital and valuable rights of the parties and causes serious injustice to the concerned party.

4. Now, the facts of the case are that the petitioner had challenged the order of his punishment dated 17.10.2022 dismissing him from service as well as the inquiry report dated 19.12.2017 by means of a writ petition bearing Writ-A No.18043 of 2022 [Lal Bahadur v.s State of U.P. & Ors.] which was allowed on 26.05.2025 with the following observations:-

"In view of above, writ petition succeeds and is allowed. The order dated 17.10.2022 as well as enquiry report dated 19.12.2017 are hereby quashed. Matter is remitted to the disciplinary authority to appoint fresh enquiry officer within a period of four weeks from the date presentation of certified copy of this order commanding him to hold and conclude departmental enquiry into the charges as framed in the chargesheet dated. 12.4.2018 but this time giving full opportunity to the petitioner to participate in the enquiry and getting his oral statement recorded and also statement of departmental witnesses, if any, in proof of the charge. The disciplinary authority shall ensure that entire enquiry stands concluded within a maximum period of 60 days of appointment of the enquiry officer and also to ensure that thereafter disciplinary proceedings stands concluded finally within next two monthsâ€™ time. Since orders impugned as well as enquiry report have been set aside, petitionerâ€™s status will continue to remain same as was there earlier during pendency of the enquiry. If petitioner was in status of suspended employee, he shall continue to remain suspended employee and shall be entitled to receive subsistence allowance and in the event he was not suspended and was regularly work he will continue as such and receive salary. However, salary of the petitioner for the period he had remained under suspension previously or otherwise salary for the period he has not worked on account of orders impugned, will depend upon final outcome of the disciplinary proceedings. "

5. We do not wish to say much as to the embargo placed by the said

judgment on the conclusion of the disciplinary proceedings against the petitioner afresh and the time limit prescribed as there are several decisions of Hon'ble the Supreme Court on this subject. Suffice it to say that the case of the appellant before the writ court was that the fresh inquiry itself could not continue beyond the time limit fixed by the earlier judgment dated 26.05.2025. In the aforesaid context, learned counsel for the appellant-petitioner relies upon a Supreme Court decision rendered on 23.04.2025 in Civil Appeal No.14724 of 2024 '**State of Uttar Pradesh Through Principal Secretary, Department of Panchayati Raj, Lucknow vs. Ram Prakash Singh**' to contend that fresh inquiry cannot go on dehors the directions passed by the writ court earlier on 26.05.2025. He also relies upon another decision of Hon'ble the Supreme Court rendered on 19.08.2025 in Civil Appeal No.6599 of 2025 '**K. Prabhakar Hegde vs. Bank of Baroda**'. Therefore, the submission is that this aspect should have been considered at the interim stage as allowing the inquiry without interim order may result in a situation where another punishment order may be passed illegally resulting in complications as it would again be required to be challenged etc. Whereas learned counsel for the State relies upon another decision of Hon'ble the Supreme Court reported in 2022 SCC Online SC 2032 '**Union of India & Ors. vs. Sharvan Kumar**' rendered in Civil Appeal No.1942 of 2014 decided on 6th July, 2022.

6. We are of the opinion that learned Single Judge should have considered the interim relief application of the appellant-petitioner for grant of ad-interim relief, either way, in the light of the observations made by the Full Bench decision in **Ashutosh Shrotiya (supra)**, therefore, without going into the question as to the maintainability of this appeal any further, we **dispose of** the same with a direction to the Registry to list the application for interim relief filed in Writ-A No.1016 of 2026 on 16.03.2026 for consideration by the learned Single Judge. We request the learned Single Judge to kindly consider the same. We make it clear that we have not at all opined in favour or against the appellant-petitioner and have left it open for the writ court to exercise its discretion as per law referred hereinabove. This order has been passed purely in the peculiar factual situation existing herein and shall not be treated as a precedent for entertaining special appeals against orders such as the one passed herein

only directing exchange of pleadings.

(Abdhesh Kumar Chaudhary,J.) (Rajan Roy,J.)
February 24, 2026/ Shanu/-