



2026:AHC:5141

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 14004 of 2003

Constable C.P. No. 2306 Now C.P. No. 378
Sukhbir Singh

.....Petitioner(s)

Versus

State Of U.P. Thru S.S.P. District Agra And Others

.....Respondent(s)

Counsel for Petitioner(s)	:	P.K. Mishra, Ram Krishna Mishra, Shamimul Hasnain, Snehlata Chaudhary, V.B. Shukla, Vivek Mishra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Ajay Kumar, learned counsel for the writ petitioner and Sri S.K. Pal, learned Addl. Chief Standing Counsel for the State.

2. Since counter and rejoinder affidavits have been exchanged between the parties and they did not propose to file any further affidavit, the writ petition is being decided at this stage.

3. The case of the original writ petitioner, Sukhbir Singh is that he was appointed on the post of Constable on 10.10.1977 and owing to unauthorized absence and commission of misconduct an order came to be passed on 05.09.1994 dispensing the services of the original writ petitioner, which was subject matter of challenge by the original writ petitioner in Writ Petition No.36649 of 1995, Sukhbir Singh vs. S.S.P. Agra and others and the said writ petition came to be decided on 22.01.2002. The extract of the order is quoted herein under: -

"In the result, the writ petition succeeds and is allowed. The impugned orders passed by the Respondent No.1 dated 5.9.1994 (Annexure-4) and order passed by the Respondent No.2 (Annexure-6 to the writ petition) are hereby a quashed. However it will be open for the respondents to proceed against the petitioner afresh, in accordance with law."

4. Thereafter, the respondents conducted an enquiry and proceeded to pass an order dated 28.12.2002 imposing the punishment of placing the original writ petitioner in the minimum pay-scale for a period of two years and for

the period from 05.09.1994 to 05.02.2002 it was treated to be 'No Work No Pay' by virtue of the order dated 28.12.2002 of the S.S.P. Varanasi.

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

6. Learned counsel for the writ petitioner has sought to argue that once the dismissal order dated 05.09.1994 was set aside by this Court on 22.01.2002 in Writ Petition No. 36649 of 1995, then the original writ petitioner could not have been denied the salary for the period from 05.09.1994 to 05.05.2002, as the only recourse available to the respondents was to deduct the payment of salary and treat the said period for 'No Work No Pay' for the period from 05.09.1994 till the orders passed by this Court setting aside the dismissal order on 22.01.2002. Learned counsel for the writ petitioner submits that the orders be set aside and matter be remitted back to pass a fresh order.

7. Sri S.K. Pal, learned Addl. Chief Standing Counsel on the other hand submits that whatever might be, there happens to be an error crept in in the order itself, as the same has proceeded on misconception, as according to him, once the dismissal order dated 05.09.1994 was set aside on 22.01.2002, then the writ petitioner is entitled to the salary for the period from 22.01.2002 till onwards. He submits that the order be set aside leaving it open for the authorities to pass a fresh order.

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

9. Apparently, the original writ petitioner was dismissed from service on 05.09.1994. The Writ Petition No. 36649 of 1995 was allowed on 22.01.2002 while setting aside the dismissal order leaving it open for the respondents to conduct enquiry. Though the writ petitioner was to be reinstated on 22.01.2002. However, the respondents have treated the period from 05.09.1994 to 22.01.2002, as 'No Work No Pay', which in the opinion of the Court is not in accordance with law, particularly when the writ petitioner was entitled to payment of salary and other benefits from 22.01.2002. As the original writ petitioner expired, thus the benefits are to be accorded to the heirs of the original writ petitioner.

10. Accordingly, the writ petition is being decided in the following terms:

(a) The order dated 28.12.2002 passed by S.S.P. Agra is set aside.

(b) Matter stands remitted back to the authority to pass a fresh order strictly in accordance with law.

11. With the above observations, the writ petition stands **disposed of**.

January 8, 2026

N.S.Rathour

(Vikas Budhwar,J.)