



2026:AHC:18469

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 4238 of 2025

Yogesh Kumar

.....Petitioner(s)

Versus

The State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Ambuj Maurya, Atipriya Gautam, Durvesh Kumar, Shubham Tripathi, Sr. Advocate
Counsel for Respondent(s)	: C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Durgesh Kumar, learned counsel for the writ petitioner and Sri S.K. Pal, DSGI for the State.

2. A statement has been made by learned counsel for the writ petitioner that though the counter affidavit has been served but he does not propose to file any rejoinder affidavit. With the consent of the parties, the writ petition be decided at the admission stage.

3. The case of the writ petitioner is that the writ petitioner was appointed on the post of Sub Inspector on 24.01.2017. As per the writ petitioner, a FIR came to be lodged Case Crime No. 304 of 2024 under Sections 305/318(2)/318(3)/ 319(2) and 329(2) of the BNSS 03.10.2024 by one of the complainant being Ashwani Agrawal son of Sri Kishan Lal, resident of 108 Gokulesh Bhawan, Radha Orchid, Govind Nagar, Mathura with an allegation that on 30.08.2024 at about 6:30 P.M., four persons including a woman and Sub Inspector in uniform came to the house and they rang the bell and the complainant opened the gate. The aforesaid persons came inside and started saying that they have to search the complainant's house as they were claiming that they are from Enforcement Directorate and they had a search warrant. The complainant asked the Policemen from where they had come from and took out the phone to confirm but the reading party took the phone and did not let the complainant to make a call. The complainant ran out of the house shouting and all the people

followed him to the neighbours house, the complainant ran away to one of the related house and all the persons who came fled away in a wide safari. Post lodging of the first information report on 03.12.2024, the writ petitioner was dismissed from service on 04.10.2024 while dispensing with the inquiry while invoking the provisions contained under Rule 8(2)(b).

4. Questioning the dismissal/appellate order, the present writ petition has been preferred.

5. This Court entertained the writ petition on 07.04.2025 and a counter affidavit has been filed by the State sworn by Assistant Commissioner of Police, District Gautam Budhnagar dated 20.08.2025.

6. Learned counsel for the writ petitioner has sought to argue that the impugned order dated 04.10.2025 dismissing the writ petitioner from service cannot be sustained even for a single moment as though Rule 8(2)(b) of the Uttar Pradesh Police Officials Subordinate Rank (Punishment and Appeal) Rules, 1991 gives liberty to the disciplinary/appointing authority to dispense with the inquiry that it is not reasonably possible to hold such inquiry. Submission is that a bare perusal of the order impugned would reveal that there is nothing on record to suggest for name sake that there would be a practical difficulty in holding the disciplinary inquiry. Learned counsel for the writ petitioner has relied upon the Coordinate Bench decision in **Writ-A No. 64542 of 2008 (Dharam Pal Singh Chauhan Vs. State of U.P)** decided on 21.01.2011 and **Writ-A No. 2153 of 2025 (Santosh Kumar Singh Vs. State of U.P.)** decided on 12.03.2025. It is further contended that at least an opportunity ought to have been accorded to the writ petitioner to have set forth his contentions and objections and amply demonstrated that he has been falsely implicated in this regard.

7. Sri S.K. Pal, DSGI submits that a perusal perusal of the allegations contained in the first information report itself shows that the writ petitioner is thoroughly unbecoming of a police official that too in a discipline force as he along with accomplice barged into the house of the

complainant and showed themselves to be a group of Government Servants who were there to conduct raid. He, however, submits that the case of the writ petitioner does not find cover under Rule 8(2)(b) of the 1991 Rules particularly when the reasons which have been recited in the order impugned that it is not reasonably practicable to hold inquiry is not made out.

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

9. Facts are not in issue. It is not in issue that a first information report stood lodged against the writ petitioner on 03.10.2024 and the respondent no. 4 being the disciplinary authority proceeded dispensed with the services of the writ petitioner. Before testing the legality of the order impugned, it would be appropriate to quote the provisions contained under Rule 8(2)(b) of the 1991 Rules.-

"Rule 8 of the Rules, 1991 is reproduced below:-

"8. Dismissal and removal - (1) No police officer shall be dismissed or removed from service by an authority subordinate to the appointing authority.

(2) No police officer shall be dismissed, removed or reduced in rank except after proper inquiry and disciplinary proceedings as contemplated by these rules:

Provided that this rule shall not apply -

(b) Where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reasons to be recorded by that authority in writing it is not reasonably practicable to hold such enquiry."

10. Now a question arises whether the reasons so assigned in the order impugned, it can be made basis not to hold regular departmental inquiry or not. For the said purpose, the reasons so accorded in the order impugned is being extracted hereinbelow-

"9. उपनिरीक्षक ना०पु०/162295809 योगेश कुमार द्वारा गिरफ्तारी के दौरान पूछताछ के मध्य अपने कथन में उ०प्र० पुलिस उपनिरीक्षक की वर्दी धारण करके फर्जी ईडी के व्यक्तियों के साथ वादी मुकदमा के घर पर जाकर बेल बताना व वादी मुकदमा के आने पर उससे पूछताछ करना स्वीकार किया गया है। आरोपित उपनिरीक्षक योगेश कुमार द्वारा जुर्म स्वीकार करने की स्थिति में किसी अन्य जाँच एवं विभागीय कार्यवाही की आवश्यकता प्रतीत नहीं होती है।"

11. A bare look of the reasons assigned in the order impugned for not holding inquiry is that the writ petitioner had admitted his guilt and, thus, the case falls between Rule 8(2)(b) of the 1991 Rules. The said reason is not worth consideration particularly when Rule 8(2)(b) itself stipulates that there are certain reasons which makes a situation whereby holding of inquiry is reasonably not practicable in **Dharam Pal Singh Chauhan (supra)**, the following was observed.-

*"2. The understanding of competent authority for exercising power under proviso to Rule 8(2)(b) of 1991 Rules, in my view, is really pitiable. Whether the delinquent employee would be able to produce any defence or not cannot be fore-judged by the disciplinary authority but it is the matter to be seen in the regular inquiry. The question as to when departmental inquiry may not be reasonably practicable is not connected whether the employee would be able to produce any evidence in defence or not and also it cannot depend on ex-parte finding recorded by authorities concerned on his own that the charge has been proved. This means that the delinquent employee is punished on the basis of charge deemed proved against him without holding any inquiry against him and complying with the constitutional provision provided under Article 311(2) of the Constitution. Time and again this Court repeatedly has noticed similar kind of illegalities and irregularities committed by police officers in exercise of power under proviso to Rule 8(2)(b) and this Court finds that this power is virtually being misused by the authorities without understanding its correct perspective. Dozens of judgements recently have been given by this Court concerning only with the police department where similar orders have been passed under proviso to Rule 8(2)(b) of 1991 Rules but still such cases are coming in a large number. It appears that police officials who are responsible for exercising this power are either not being apprised of the correct understanding of aforesaid provision or the same is being exercised for the reasons other than bona fide. Some of such decisions I may refer hereat only as a handy illustration are, **Yadunath Singh Vs. State of U.P. & Others** 2009 (9) ADJ 86; **Raja Ram Yadav Vs. State of U.P. and others**, 2009(6) ADJ 657; **Jahir Singh Yadav Vs. State of U.P. and others**, 2009(6) ADJ 605; **Subhas Chandra Yadav Vs. State of U.P.**, 2009 All L.J. (3) 414; **Satya Prakash Vs. State of U.P. and others** (Civil Misc. Writ Petition No. 28875 of 2006), decided on 07.11.2008; **Ram Sanehi Misra Vs. State of U.P. and others** (Civil Misc. Writ Petition No. 61271 of 2006), decided on 05.10.2009; and, **Ravi Dutt Tyagi Vs. State of U.P. and others** (Civil Misc. Writ Petition No. 56979 of 2006), decided on 17.02.2009."*

12. In **Santosh Kumar Singh (supra)**, the said principle of law had been reiterated. had been reiterated.

13. Since from the order impugned, the reasons so assigned in not holding inquiry does not test the legal principles, thus, the orders impugned cannot be sustained.

14. Accordingly, the writ petition is being decided in the following terms.-

(a) the order dated 04.10.2024 passed by the Additional Police Commissioner, Gautam Budhnagar dismissing the services of the writ petitioner and the order dated 31.12.2024 passed by Commissioner of Police, Gautam Budhnagar rejecting the appeal are set aside; (b) liberty is accorded to the disciplinary authority to conduct departmental proceeding if it so chooses.

15. With the aforesaid observation, the writ petition stands disposed of.

(Vikas Budhwar,J.)

January 27, 2026

Rajesh