



2026:AHC:19745

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 1066 of 2026

Sudhish Kumar

.....Petitioner(s)

Versus

The State Of Up And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Dhani Raj, Swapnesh Singh, Sr. Advocate, Yadvendra Krishan
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri S.N. Singh, learned Senior Counsel assisted by Sri Swapnesh Singh, learned counsel for the writ petitioner and Sri Gaurav Singh, learned Standing Counsel for the State.

2. The writ petitioner herein had earlier approached this Court while filing Writ-A no.55191 of 2015, which came to be decided on 03.09.2025 while passing the following orders:-

"1. Heard Mr. Rishabh Kesarwani, learned Counsel for the petitioner and learned Standing Counsel.

2. By means of this petition filed under Article 226 of the Constitution of India, petitioner has assailed the order of dismissal from service passed by disciplinary authority chiefly on the ground that inquiry officer was not competent authority to make recommendation of punishment which has been ultimately imposed by way of disciplinary action against the petitioner.

3. Learned counsel for the petitioner submits that this controversy is no more res integra in light of the judgment of this Court in the case of Balbir Singh Vs. State of U.P. And 3 Others being Writ-A No.14933 of 2019, wherein, the Court has considered Rule 14(1) of the U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991 as well as the Appendix - I thereof which does not permit the inquiry officer to make any recommendation for a particular penalty while in the conclusion part of the inquiry report, in which he holds the delinquent employee guilty of the charges.

4. Upon perusal of the inquiry report submitted by the inquiry officer, I find that while inquiry officer has arrived in its ultimate conclusion that the charges were liable to be brought home and, thus, brought home but also at the same time made recommendations for termination of service of the petitioner in view of the fact that petitioner has been found guilty of the charges. Thus, the inquiry report falls within

the mischief of Appending - I of Rule 14(1) of the 1991 Rules and, therefore, the disciplinary authority should have rejected the inquiry report itself for this flaw. However, I find that disciplinary authority proceeded to issue show cause notice to the petitioner referring to the proposed punishment and also ultimately in the order of termination from service he has relied upon the recommendation made by the inquiry officer and hence there is no independent application of mind.

5. Learned Standing Counsel was directed to obtain instructions in the matter as to the legal position and today, learned Standing Counsel is not in a position to defend the order on the sound principle of administrative law that, when a thing is required to be done in a particular manner by the authority, it should be done in that manner alone. In the cases of Krishna Rai (Dead) through Legal Representatives vs. Banaras Hindu University Through Registrar and Others (2022) 8 SCC 713 and Tata Chemical Ltd. vs. Commissioner of Customs (Preventive), Jamnagar (2015) 11 SCC 628, the Supreme Court has very categorically held that if the provision mandates for a particular exercise of power by a particular authority then such exercise of power should be by that very authority and in the manner prescribed under the Rules.

6. In view of the above, therefore, order impugned terminating the services of the petitioner on the basis of inquiry report is liable to go and inquiry report is also liable to be held bad in law for want of necessary compliance of the procedure laid down under the relevant rules.

7. This writ petition thus, succeeds and is allowed. The inquiry report dated 25th June, 2014 and order of the disciplinary authority dated 17th September, 2014 are hereby quashed.

8. The matter is remitted to the stage of enquiry to be held afresh by appointing a new enquiry officer within two weeks of production of certified copy of this order. Petitioner shall be participating in the enquiry which shall be concluded within two months of appointment of enquiry officer. Soon after enquiry report is submitted, the disciplinary authority shall proceed to pass order as per proceedings prescribed under the rules and in full compliance of principles of natural justice. The final order shall be passed within a month of presentation of enquiry report.

9. Petitioner shall enjoy the same status as he had at the time of passing of the order of termination by the disciplinary authority."

3. According to the writ petitioner, till date the writ petitioner has not been allowed joining, though he has been directed to participate in the disciplinary proceeding, which would be held.

4. Prayer in the present writ petition is for a direction to decide the representation and to pay all the service benefits to the writ petitioner.

5. Learned Standing Counsel on the other hand submits that in case the order of this Court is not complied with, it is open for the writ petitioner to file a

contempt petition.

6. Having heard the submissions so made across the Bar and bearing in mind the fact that it is the stand of the writ petitioner that the writ petitioner is not been allowed joining, thus the recourse available to the writ petitioner is to file the contempt petition.

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

8. Instructions filed today are taken on record and marked as Appendix 'A'.

January 29, 2026

N.S.Rathour

(Vikas Budhwar,J.)