



2026:AHC:23384

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 199 of 2026

Ram Vilas

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Awadh Narain Rai, Rajesh Kumar Singh
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Awadh Narain Rai, learned counsel for the writ petitioner and Sri Pramod Kumar Srivastava, learned Addl. Chief Standing Counsel for the State.
2. This Court had entertained the present writ petition on 13.01.2026 and required the learned Standing Counsel to obtain instructions. The instructions dated 26.01.2026 have been produced under the signatures of Superintendent of Police, Kanpur Dehat, which are taken on record and marked as Appendix 'A'.
3. Sri Pramod Kumar Srivastava, learned Addl. Chief Standing Counsel has made a statement that he is well equipped with the instructions and is in a position to argue the case. He does not propose to file any counter affidavit and he further submits that the writ petition be decided on the basis of the documents available on record.
4. With the consent of the parties, the writ petition is being decided at the fresh stage.
5. The case of the writ petitioner is that he was appointed as a Police Constable and he sought promotion on the post of Head Constable, however his claim of promotion on the post of Head Constable was not considered on the ground that there happened to be a criminal case, being Case Crime no. 86/2016, under Section 224, 223 I.P.C.. Since the claim of the writ petitioner for promotion on the post of Head Constable was not being considered, the writ petitioner preferred Writ-A No.12164 of 2025, Ram Vilas vs. State of

U.P. and others, which came to be disposed of on 23.08.2025 requiring the Superintendent of Police, Kanpur Dehat to consider the claim of the writ petitioner. Thereafter, on 31.12.2025, the Superintendent of Police, Kanpur Dehat proceeded to negate the claim of the writ petitioner. Learned counsel for the writ petitioner has sought to argue that the order impugned cannot be sustained for the single moment, particularly when though against the writ petitioner, departmental proceeding stood initiated and the writ petitioner was placed under suspension on 16.03.2016, a show cause notice was issued to the writ petitioner on 27.12.2016, to which the writ petitioner tendered his reply on 10.01.2017 and an order came to be passed by the fourth respondent on 01.03.2017, imposition of the fine equal to 15 days of salary and against which the writ petitioner preferred an department appeal, which came to be allowed by the third respondent on 06.04.2017, thus it would be presumed in the eyes of law that there is no departmental proceeding and punishment against the writ petitioner. Argument is also to the extent that though a criminal case stood lodged against the writ petitioner and the writ petitioner is entangled in Case Crime no.86 of 2016, under Section 223 and 224 IPC, but mere pendency of a criminal case would not be a ground to denude the benefit of the writ petitioner for grant of promotion either on regular basis or adhoc basis in view of the Government Order dated 28.05.1997.

6. Contention is that the charges under Sections 223 and 224 of IPC are not so grave and serious so as to block the chances of promotion and according to the writ petitioner, in case the writ petitioner has been found fit to discharge the duty as Constable, then there cannot be a ground to denude his claim for being promoted as Head Constable. Learned counsel for the writ petitioner further submits that the aforesaid aspects of the matter have not been considered and even otherwise the case of the writ petitioner in absence of any allegation of prolonging the proceedings cannot be a ground to even consider the case of the writ petitioner on promotion on adhoc basis.

7. Learned Addl. Chief Standing Counsel while countering the submission so made by the learned counsel for writ petitioner submits that the writ petitioner has a legal right for being considered for promotion and he does not have a fundamental right for promotion. He submits that the promotion is subject to suitability, eligibility and other factors. Sri P.K. Srivastava, learned Addl. Chief Standing Counsel submits that the authorities have not considered the case of the writ petitioner in correct perspective, as per the Government Order dated 28.05.1997.

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

9. Facts are not in issue. It is not in dispute that the writ petitioner is presently posted as Constable. He seeks promotion on the post of Head Constable. Though departmental proceedings stood initiated by virtue of issuing of show cause notice with regard to irregularity committed by the writ petitioner to which writ petitioner tendered reply and a punishment order came to be passed by the fourth respondent by imposition of fine for a period of 15 days against which the appeal was preferred, which came to be allowed. Though there happens to be a criminal case against the writ petitioner under Section 223 and 224 of IPC, but for the order impugned, it is not apparent that there has been consideration of the Government Order dated 24.05.1997 on correct perspective. The author of the order got swayed away with the consideration that there is a criminal case pending against the writ petitioner proceeded to negate the claim without considering the import and impact of para-10 and 11 of the Government Order dated 24.05.1997. It is also not forthcoming from the order impugned that the charges had been held to be serious against the writ petitioner so as to denude his promotion and also the fact that the writ petitioner was instrumental in getting the proceedings prolonged, despite the fact that the department wanted to conclude the same with most expedition.

10. Since the aforesaid aspects of the matter are lacking, thus the order impugned cannot be sustained. Accordingly, the order dated 31.12.2025 passed by the Superintendent of Police, Kanpur Dehat, fifth respondent is set aside. Matter stands remitted back to the authority to pass a fresh order strictly in accordance with law.

11. Passing of the order today, would not given an automatic right to the writ petitioner for promotion as the same would be subject to further order to be passed post remand of the matter.

12. With the aforesaid observations, the writ petition stands **disposed of**.

February 3, 2026

N.S.Rathour

(Vikas Budhwar,J.)