



2026:AHC:52652

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 19456 of 2025

Umesh Chandra Rai

.....Petitioner(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Rudra Kant Mishra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Rudra Kant Mishra, learned counsel for the petitioner and Sri Pramod Kumar Srivastava, learned Additional Chief Standing Counsel, who appears for State-respondents.

2. The case of the writ petitioner is that he was appointed as Lekhpal on 02.09.1971 and as per the writ petitioner, he has falsely implicated due to village partibandi in case crime no. 317 of 2007, under Sections 307, 504, 506 IPC, Police Station Kerakat, District Jaunpur and he was placed under suspension on 21.04.2007. It is also the case of the writ petitioner that he was falsely implicated in another criminal case bearing case crime no. 597 of 2003 due to village partibandi in which after the trial, the writ petitioner was convicted and sentenced for five years R.I. by the Additional Sessions Judge/ F.T.C.-4th, Jaunpur vide judgment and order dated 16.08.2007 in S.T. No. 352 of 2004 under Sections 323/34, 452, 308/34, 506 IPC and he was sent to Jail on 16.08.2007. The writ petitioner was dismissed from service vide order dated 03/08.10.2007. The writ petitioner preferred Writ-A No. 63793 of 2009, seeking following reliefs:

"1. To issue a writ, order or direction in the nature of writ of mandamus commanding the respondents to pay to the petitioner the balance and arrears of monthly salary along with benefits and other consequential benefits attached to the post of Lekhpal commencing from 15.04.2007 to 31.07.2009.

2. To issue a writ, order or direction in the nature of writ of mandamus commanding the respondent to pay to the petitioner retirement pension, provident fund, group insurance amount and other admissible and

permissible benefits for the post of Lekhpal to the petitioner after 1st August 2009.

3. To pass such other and further proper and appropriate orders which this Hon'ble Court may deem fit and just in the nature and circumstances of the case.

4. To award costs of this petition in favour of the petitioner against the respondents."

3. The said writ petition came to be disposed of on 04.10.2010, while passing the following orders:

"Heard learned counsel for the parties.

The petitioner has been convicted in a criminal case. He has been dismissed from service vide order dated 8.10.2007 copy whereof is Annexure 5 to the writ petition.

The relief claimed in this petition is with regard to the arrears which the petitioner claims between 15.4.2007 to 31.7.2009 and other benefits after 1st August, 2009.

In the circumstances indicated above, once the petitioner has been dismissed from service he cannot be paid emoluments after his dismissal. However the claim about the dues prior to his dismissal are concerned, the petitioner can approach the S.D.M.(Sadar),Jaunpur along with a certified copy of this order before him who may consider the same and pass orders.

The writ petition is disposed of."

4. Thereafter the writ petitioner preferred Writ-A No. 57716 of 2011, seeking following reliefs:

"i) issue a suitable writ, order or direction in the nature of mandamus commanding the respondent no.3 to decide the application filed by petitioner dated 21.2.2011 (contained in Annexure No.2 to this writ petition) and make payment of all retiral dues to the petitioner immediately without any further delay.

ii) issue any other writ, order or directions, as this Hon'ble Court deems fit and proper in the circumstances of the case.

iii) award the cost of petition to the petitioner."

5. The said writ petition was disposed of while passing the following orders:

"Learned counsel for the petitioner states that in pursuance of the order dated 04.10.2010 passed in Writ Petition No.63793 of 2009 this Court has directed that the petitioner can approach Sub Divisional Magistrate, Sadar, Jaunpur for the arrears for the period 15.04.2007 to 31.07.2009 and other benefits after 1st August, 2009. He submitted that the petitioner has filed the representation dated 21.02.2011, annexure-2 to the writ petition, before Sub Divisional Magistrate, Sadar, Jaunpur, which is pending consideration.

In view of the above, the writ petition is disposed of directing the respondent no.3, Sub Divisional Magistrate, Sadar, Jaunpur to dispose of the representation of the petitioner expeditiously, preferably within a period of three months from the date of presentation of the certified copy of this order by a speaking order, strictly in accordance to law."

6. The writ petitioner thereafter approached the respondents while raising a claim that since though the writ petitioner came to be convicted by virtue of the judgment and order dated 16.08.2007 passed by the Additional Sessions Judge/ F.T.C.-4th, Jaunpur in S.T. No. 352 of 2004, under Sections 323/34, 452, 308/34, 506 IPC while being sentenced to undergo for five years and against which the writ petitioner preferred a criminal appeal no. 5510 of 2007 in which on 23.08.2007, the writ petitioner has been enlarged on bail, thus the writ petitioner be reinstated in service and the said claim came to be rejected by virtue of the order dated 20.12.2011 passed by the second respondent on the ground that the writ petitioner happens to be convicted and the criminal appeal is pending.

7. Learned counsel for the writ petitioner has submitted that the dismissal order dated 03/08.10.2007 and the order dated 20.12.2011 negating the claim of the writ petitioner for reinstatement cannot be sustained for the simple reason that the writ petitioner has been enlarged on bail.

8. Learned Additional Chief Standing Counsel on the other hand submits that whatever might be once the writ petitioner stands convicted and the appeal stands preferred in which the writ petitioner has been enlarged on bail then it cannot be construed to be an expression that the conviction and sentence both have been stayed.

9. I have heard learned counsel for the parties and gone through the records carefully.

10. Apparently, the writ petitioner questions two orders, one the dismissal order and the second order whereby post enlargement on bail and pendency of a criminal appeal, the claim for reinstatement has been rejected.

11. In the opinion of the Court, till the conviction is in-existence, the writ petitioner cannot be claimed as a matter of right of consequential benefits post retirement which he claims in that regard.

12. Accordingly, the writ petition is being **disposed of**.

13. Leaving it open for the writ petitioner to take appropriate proceedings at appropriate time post outcome and the decision in the criminal appeal.

14. The question of delay, latches and maintainability shall be left open to the respondents to raise at that point of time.

15. Instructions filed today are taken on record and marked as appendix A.

March 16, 2026

Ashu

(Vikas Budhwar,J.)