



2026:AHC:42563

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 2848 of 2026

Aman Bhasin

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Abhinav Gaur, Prashant Gupta
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Prashant Gupta, learned counsel for the writ petitioner and Sri Manish Kumar, learned Standing Counsel for the State.

2. Sri Manish Kumar, learned Standing Counsel has made a statement that he is well equipped with the instructions so provided to him dated 24.02.2026 under the signatures of District Magistrate, Homeguard, Bareilly and he is in a position to argue the case and 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.

3. With the consent of the parties, the writ petition is being decided at the fresh stage.

4. The case of the writ petitioner is that he was selected on the post of Assistant Company Commander by the third respondent, District Commandant (Home Guard) Bareilly. However, according to the writ petitioner in the year 2010, when the writ petitioner was posted on the said post, an FIR dated 13.02.2010 came to be lodged against the writ petitioner and 10 others under Section 364 of IPC, P.S. Cantt. Bareilly bearing Case Crime no. 264 of 2010 and thereafter, Section 302 of the IPC stood added. Thereafter, a final report came to be submitted in favour of the writ petitioner on 04.04.2010. A protest petition came to be preferred, in which further investigation was ordered, however, again final report came to be submitted on 17.07.2010. However, the first informant in the aforesaid criminal proceeding, filed Crl. Misc. Writ Petition No. 7173 of 2010, and this Court by virtue of the order dated 28.03.2013, transferred the case to the CBI and the said case came to be registered as R.C. No. 7 (s)/2013, P.S. CBI

on 01.01.2013. Thereafter a charge sheet came to be submitted against the writ petitioner on 30.09.2016, under Section 306 read with Section 120-B IPC against the writ petitioner. The writ petitioner claims to have challenged the said charge sheet submitted by CBI on 30.09.2016 while preferring an application under Section 482 No.35734 of 2016, wherein the writ petitioner was directed to apply for bail. Against the order of this Court, a Special Leave Petition came to be preferred, which came to be dismissed and thereafter the writ petitioner surrendered before the Trial Court on 04.06.2019 sought bail which was rejected and thereafter the writ petitioner preferred Bail Application No.1078 of 2019, before the Lucknow Bench of this Court in which on 04.04.2020, the writ petitioner was enlarged on bail. According to the writ petitioner, on account of the aforesaid criminal case, the writ petitioner's services came to be dispensed with and the appointment was cancelled by virtue of the order dated 04.11.2019. The writ petitioner thereafter post-enlargement on bail, preferred an appeal before the Appellate Authority being Divisional Commandant (Home Gaurd), Bareilly Division, Bareilly questioning the order dated 04.11.2019, which came to be rejected on 08.08.2023.

5. Assailing the order dated 08.08.2023, the present petition has been preferred.

6. Learned counsel for the writ petitioner submits that though at the time when the order dated 04.11.2019 came to be passed by the District Commandant dispensing with the services and cancellation of candidature, then at that point of time, there happened to be a Government Order dated 22.10.2020, according to which a classification came to be carved out for the offences wherein punishment was below 7 years and above 7 years, however, the said Government Order dated 22.10.2020 came to be rescinded and thereafter another Government Order dated 18.08.2020 came to be issued wherein the said classification came to be carved out with respect to the punishment wherein offences were below 7 years and above 7 years and Clauses- 5, 6 and 8 of the Government Order dated 18.08.2023 was subject matter of challenge in **Writ-A No.16186 of 2024, Mahesh Singh vs. State of UP** along with other writ petitions which came to be decided on 26.09.2025 holding Clauses 5, 6 and 8 of the Government Order dated 18.08.2023 as ultra vires.

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

records carefully.

8. Apparently, on 04.11.2019, the appointment of the writ petitioner stood cancelled and his services were dispensed with on the ground that there happened to be a criminal case pending against the writ petitioner while relying upon the Government Order dated 22.10.2020, wherein a classification came to be carved out with respect to the offences whereby punishment was above below 7 years and above 7 years. The said Government Order came to be rescinded by virtue of another Government Order dated 18.08.2023. The writ petitioner preferred an appeal against the order dated 04.11.2019 which was rejected on 08.08.2023, relying upon the classification so carved out in the Government Order dated 22.10.2020, however, the classification so carved out for the offences wherein punishment is below 7 years or above 7 years in the Government Order dated 18.08.2023 being Clauses-, 5, 6 and 8 was subject matter of challenge in ***Mahesh Singh (supra)*** wherein the said provisions were declared ultra vires.

9. Learned Standing Counsel at this stage submits that in view of the Government Order dated 02.12.2016, the writ petitioner has alternative efficacious remedy of approaching Commandant General (Home Guard), against the order passed by the Divisional Commandant (Home Guard). Thus the writ petition is **disposed of** directing the writ petitioner to prefer an appeal by 13.03.2026 before the Appellate Authority and on the said motion the Appellate Authority shall decide the appeal strictly in accordance with law bearing in mind the judgment in ***Mahesh Singh (supra)*** within a period of six weeks and while entertaining the appeal, the objection on delay is not to be raised in that regard.

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

February 25, 2026

N.S.Rathour

(Vikas Budhwar,J.)