



2026:AHC:44042

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - A No. - 2993 of 2026**

Jitendra Singh

.....Petitioner(s)

Versus

The State Of U.P. And 4 Others

.....Respondent(s)

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|---------------------------|---------------------------------------------------------------------|
| Counsel for Petitioner(s) | : Arya Gautam, Atipriya Gautam, Jay Vishwanath Pandey, Sr. Advocate |
| Counsel for Respondent(s) | : C.S.C.                                                            |

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**Court No. - 33**

**HON'BLE VIKAS BUDHWAR, J.**

1. Heard Sri Vijay Gautam, learned Senior Advocate, assisted by Ms. Arya Gautam, learned counsel for the writ petitioner and Sri R.S. Umrao, learned Standing Counsel for the State.
2. Sri R.S. Umrao has made a statement at Bar that he does not propose to file any affidavit and 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 the writ petitioner was appointed as Constable on 13.01.2011, however, a charge sheet came to be served upon the writ petitioner with an allegation that the writ petitioner was posted as Constable, he was unauthorizedly absent without permission from 06.04.2021 for the period of 7 days. Post denial of the charges, the Inquiry Officer stood appointed who conducted inquiry and submitted inquiry report dated 31.03.2022 recommending imposition of punishment under Rule 4(1)(a) of the U.P. Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991. A show cause notice was issued to which the writ petitioner tendered reply and thereafter, the writ petitioner came to be dismissed from service on 05.12.2022 against which the writ petitioner preferred an appeal which came to be rejected by the appellate authority on 18.08.2023. A revision was also preferred which was rejected on 23.12.2025 by the revising authority.

5. Questioning the dismissal order dated 05.12.2022, appellate order dated 18.08.2022 and the revisional order dated 23.12.2025 passed by Superintendent of Police, Hamirpur, fourth respondent, Inspector General of Police, Chitrakoot Dham Range Banda, District Banda, third respondent and ADG Prayagraj Zone, Prayagraj, District Prayagraj, third respondent, the present writ petition has been preferred.

6. Learned counsel for the writ petitioner has sought to argue that the order impugned cannot be sustained for the simple reason that it was not the domain of the inquiry officer to propose punishment and that too specify that the same shall be made effective post approval by the disciplinary authority. Submission is that the function is entrusted with the disciplinary authority, who has to pass punishment order after looking into the gravity of the charges, whether minor or major as per the Rules. It is also contended that the only work entrusted to the inquiry officer was to conduct inquiry on the basis of the charges leveled in the charge sheet and to record a finding whether they stand proved or not. Reliance has been placed upon the decision of the Hon'ble Apex Court in State of Uttaranchal vs. Kharag Singh (2008)8 SCC 426 as well as the order passed by the coordinate of this Court in Writ-A No.19952 of 2019, Mohd. Miyan vs. State of U.P. decided on 21.08.2025. Learned counsel for the writ petitioner submits that the impugned order be set aside and the matter be remitted back to the authority to proceed afresh in accordance with law.

7. Sri R.S. Umrao, learned Standing Counsel on the other hand submits that the enquiry proceedings have been conducted as per the Rules and there is no violation of principles of natural justice. He submits that due opportunity was accorded to the writ petitioner to participate in the enquiry proceeding and the Enquiry Officer after finding the charges to be proved, had submitted his enquiry report, however, he submits that it is not within the domain of the enquiry officer to propose punishment.

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

9. Apparently, the writ petitioner was charge sheeted. A preliminary enquiry was set up followed by a regular enquiry and on 31.03.2022, the enquiry officer submitted his enquiry report holding the writ petitioner/delinquent to be guilty while observing as under:-

"अतः आरोपी निलम्बित आरक्षी 112342050 जितेन्द्र सिंह के दिनांक 05.04.2021 से लगातार गैर हाजिर रहने हेतु उ०प्र० अधीनस्थ श्रेणी के पुलिस अधिकारियों / कर्मचारियों की (दण्ड एवं अपील) नियमावली-1991 के नियम-4(1) क के उपनियम-एक के अन्तर्गत पदच्युत किये जाने की संस्तुति की जाती है। उक्त आदेश पुलिस अधीक्षक हमीरपुर के अनुमोदनोपरान्त प्रभावी होगा ।"

10. The Disciplinary Authority based on the enquiry report, agreeing with the same had proceeded to pass order dated 05.12.2022 dismissing the writ petitioner from service, against which an appeal came to be preferred which was rejected on 18.08.2023 followed by revision on 23.12.2025. As a matter of fact, the services of the petitioner are governed under the provisions of the U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991. Rule 14 reads as under: -

*"14(1) Procedure for conducting departmental proceedings- (1) subject to the provisions contained in these rules, the departmental proceedings in the case referred to in sub-rule (1) of rule 5 against to the police officers May br conducted in accordance with the procedure laid down in appendix- I"*

11. Appendix -1 pertains to the procedure relating to conduct of departmental proceedings against police officer reads as under:-

*"APPENDIX-1*

*PROCEDURE RELATING TO THE CONDUCT OF*

*DEPARTMENTAL PROCEEDINGS AGAINST POLICE OFFICER*

*Upon institution of a formal enquiry such police officer against whom the enquiry has been instituted shall be informed in writing of the grounds on which it is proposed to take action and shall be afforded an adequate opportunity of defending himself. The grounds on which it is proposed to take action shall be used in the form of a definite charge or charges as in Form I appended to these Rules which shall be communicated to the charged police officer and which shall be so clear and precise as to give sufficient indication to the charged police officer of the facts and circumstances against him, he shall be required, within a reasonable time, to put in, in a written statement of his defence and to state whether he desires to be heard in person. If he so desires, or if the Inquiry Officer so directs an oral enquiry shall be held in respect of such of the allegation as are not admitted. At that enquiry such oral evidence will be recorded as the Inquiry Officer considers necessary. The charged police officer shall be entitled to cross-examine the witnesses, to give evidence in person and to have such witnesses called as he may wish:*

*Provided that the Inquiry Officer may for sufficient reasons to be recorded in writing, refuse to call a witness. The proceedings shall contain a sufficient record of the*

*evidence and statement of the findings and the ground thereof. The Inquiry Officer may also separately from these proceedings make his own recommendation regarding the punishment to be imposed on the charged police officer."*

12. A close reading of the enquiry report would reveal that the enquiry officer in the zeal of proving the charges against the delinquent employee had exceeded its jurisdiction while proposing punishment, that too by referring to the specific provisions contained under the 1991 Rules, i.e. Rule 4(1)(a)(i). Certainly, the task which has been assigned to the Enquiry Officer is to conduct enquiry proceedings while recording its finding whether the charges are proved or not against the delinquent employee and it is the prerogative and jurisdiction while exercising discretion of the Disciplinary Authority to pass punishment order if there are variety of punishments provided in the Rules. In **State of Uttaranchal vs. Kharak Singh (supra)**, the Hon'ble Apex Court has held as under:-

*"18. ... Though there is no specific bar in offering views by the enquiry officer, in the case on hand, the enquiry officer exceeded his limit by saying that the officer has no right to continue in the government service and he has to be dismissed from service with immediate effect."*

13. Further in **Mohammad Miyan (supra)**, a coordinate Bench of this Court has observed as under:-

*"14. It is well settled principle of law that when statute provides for a thing to be done in a particular manner, it should be done in that manner alone (Krishna Rai v. Banaras Hindu University and others (2022) 8 SCC 713). 15. In such above view of the matter, the enquiry officer's recommendation of the proposed punishment from dismissal of service as well as denial of salary on principle of 'No Work No Pay' cannot be approved of. The report also deserves to be set aside and so also consequential order of dismissal of the petitioner and so also the order passed by the appellate authority and order of authority sitting in revision also deserve to be set aside."*

14. Since the said discrepancy goes to the root of the matter, which vitiates the entire proceedings, thus in the opinion of the Court, it is not justified or justifiable for the enquiry officer to propose punishment in that regard.

15. Thus writ petition succeeds and is **allowed**. The orders dated 05.12.2022, 18.08.2023 and 23.12.2025 are hereby quashed.

16. The matter is remitted to the disciplinary authority to get the enquiry

report in the matter afresh by appointing enquiry officer other than officer who had previously held, the enquiry within two weeks of production of certified copy of this order. The petitioner shall be participating in the enquiry. The enquiry shall start from the stage of reply already submitted by petitioner and enquiry report shall be submitted within a maximum period of two months from the date of appointment of enquiry officer. The disciplinary authority, thereafter shall proceed to take appropriate decision in the matter within a further period of one month in compliance of principles of natural justice. The status of the petitioner in the meanwhile shall continue to remain the same as was at the time of passing of order of punishment by the disciplinary authority.

**February 26, 2026**  
Rajesh

**(Vikas Budhwar,J.)**