



2026:AHC:28288

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 15424 of 2025

Dr. Chandra Bhushan Singh Mahur

.....Petitioner(s)

Versus

State Of Uttar Pradesh And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Bhupesh Kumar Singh, Vipin Chandra Lal
Counsel for Respondent(s)	:	C.S.C.

Along with :

- Writ - A No. 12078 of 2024:**
Dr Chandra Bhushan Singh Mahur
Versus
State of U.P. and 2 others
-

Court No. - 39
(Sl.No.1)

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Bhupesh Kumar Singh, learned counsel for the petitioner, Sri Vishal Singh, learned Standing Counsel for the State.

2. Both the aforementioned petitions have been filed by the petitioner herein, the first petition being Writ- A No. 12078 of 2024 has been filed challenging the order dated 05.10.2023, whereby the penalty of withholding the two increments of the petitioner and a censure entry was made against the petitioner herein and second Writ-A No. 15424 of 2025 has been filed by the petitioner for seeking a direction to the respondent no.1 to decide the representation of the petitioner dated 27.08.2025 with regard to payments of leave encashment, gratuity, etc. and fixation of the regular pension to the petitioner.

3. Brief facts of the case are that the petitioner had been working as Senior Homeopathic Officer at Government Homeopathic Dispensary, Shankargarh, Jaunpur and he retired on 28th February 2025 from Jaunpur.

Prior to that, he was working as Officiating District Homeopathic Officer, Bulandshahr. One Naresh Kumar was the pharmacist working under the petitioner here at District Bulandshahr. He had submitted a written complaint against the petitioner. Thereupon, the preliminary enquiry was conducted and a report dated 12.10.2021 was submitted by the Chief Development Officer, Bulandshahr, while issuing the warning to both the complainant Naresh Kumar, Pharmacist, as well as the petitioner herein to be careful in their behavior against each other as well as against the senior officers.

4. In the meantime, the Director, Homeopathy, Uttar Pradesh has directed the Joint Director, Education/ Enquiry Officer to conduct a preliminary enquiry against the allegations made by said Naresh Kumar, Pharmacist against the petitioner. The enquiry was conducted by Prof. Vijay Kumar Pushkar and the preliminary enquiry report was submitted recommending the suspension of the petitioner and to initiate the disciplinary proceeding against the petitioner and also to transfer Naresh Kumar, Pharmacist to some other distant district and to initiate strict action against him as well.

5. On the basis of the aforementioned preliminary inquiry the petitioner was suspended and Dr. Prof. Anand Kumar Chaturvedi was appointed as the Enquiry Officer to prepare the charge sheet against the petitioner herein, which was duly approved by the Additional Chief Secretary. The aforementioned charge sheet dated 22nd March 2022 was duly served upon the petitioner. Having received the charge sheet, the petitioner submitted his reply to the aforementioned charge sheet on 10.04.2022. It is pertinent to mention here that in the aforementioned charge sheet the Enquiry Officer has not proposed any witness to be examined and so far as the documentary evidence is concerned, only the report of the preliminary enquiry was made the basis of the charges leveled against the petitioner. The copy of the said report dated 08.12.2021, which was relied upon for framing the charges, has also been supplied to the petitioner. The petitioner, though has submitted his reply on 10.04.2022, however, did not propose to examine any witness in his support nor he proposed to bring on record any documentary evidence.

6. Having received the reply submitted by the petitioner, the Enquiry

Officer has concluded the proceedings and submitted its report on 29.06.2022. On receipt of the enquiry report, the Additional Chief Secretary issued a show cause notice dated 03.08.2022 to the petitioner calling for the punishment to be awarded to the petitioner with regard to the two charges, which were found to have been proved against the petitioner out of three charges leveled in the charge sheet.

7. The petitioner herein submitted his response dated 05.08.2022. Thereupon, the impugned order dated 05.10.2023 has imposed the punishment of withholding the two increments as well as passing a censure entry against the petitioner. Being aggrieved by the same, the petitioner has filed Writ-A No. 12078 of 2024. It is also pertinent to mention here that against the suspension order, the petitioner has filed Writ-A No. 5723 of 2023 and by the order dated 28.04.2023, the petitioner was reinstated and, the said petition was disposed of with permission to carry on the disciplinary enquiry and conclude the same. Subsequently, the petitioner herein was superannuated on 28.02.2025. However, due to the aforementioned punishment order passed against the petitioner, all his retiral dues were not granted to the petitioner. Therefore, the petitioner has filed another Writ-A No. 15424 of 2025 seeking a direction for payment of leave encashment, gratuity and regular pension to the petitioner.

8. The contention learned counsel for the petitioner is that while conducting the enquiry and disciplinary proceedings against the petitioner, the Enquiry Officer has failed to conduct the enquiry in a fair manner and has not followed the procedure as provided under Rule-7 of the U.P. Government Servant (Discipline and Appeal) Rules, 1999 (in short 'Rules, 1999'). No witness has been examined in support of the allegations made in the charge sheet against the petitioner nor any further opportunity has been granted to the petitioner to be heard before submitting the enquiry report. Learned counsel for the petitioner further submitted that the disciplinary authority has also not considered the reply submitted by the petitioner to the show cause notice issued to him after submission of the enquiry report and, finally, the impugned order dated 05.10.2023 has been passed against the petitioner. He further submits that non-examination of the witnesses as well as non-grant of any opportunity

of hearing to the petitioner, the enquiry report is vitiated, and since in the impugned order the reply of the petitioner to the show cause notice has not been considered, therefore, the same is also vitiated. Therefore, the petitioner seeks quashing of the enquiry report as well as the impugned order whereby his two increments were withheld by the respondents and a censure entry was made against the petitioner.

9. On the other hand, learned Standing Counsel for the state submits that the proper procedure as provided under Rule 7 of the Rules, 1999 have been followed by the Enquiry Officer as well as by the disciplinary authority. Learned Standing Counsel further submits that in the charge sheet proposed, the Enquiry Officer has not relied upon any witness and no witness was proposed to be examined during the enquiry. Rather, the enquiry report which was submitted on the basis of the preliminary enquiry was relied upon by the Enquiry Officer. Copy of the same was supplied along with the charge sheet to the petitioner herein. In response to the charge sheet, the petitioner has not proposed to examine any witness in support of his defence nor has proposed to produce any document in his defence. Thus, there was no witness proposed in the charge sheet, nor any witness was proposed on behalf of the petitioner. Therefore, there was no occasion for the Enquiry Officer to examine any witness in this case. Though the Enquiry Officer has ample discretion to examine any of the witnesses so desired by the Enquiry Officer or call for any record required by it for concluding the enquiry. However, the Enquiry Officer in its discretion has chosen not to examine any of the witnesses merely because no witness was examined, the enquiry report cannot be said to be vitiated.

10. It is further submitted by the learned Standing Counsel for the state that the Enquiry Officer has followed the proper procedure and considered the reply submitted by the petitioner and on analysis of the entire material available on record, has submitted its report in which out of the three charges, he has found two charges proved against the petitioner and for one of the charges, he was exonerated. Thereupon, proper show cause notice was issued along with the enquiry report to the petitioner by the disciplinary authority. The Petitioner also submitted its reply and after due consideration of the reply submitted by the petitioner,

the impugned order has been passed. Therefore, there is no technical flaw in the entire proceeding against the petitioner herein. In view thereof, no interference is called for in the impugned order dated 05.10.2023 against the petitioner.

11. Having heard the rival submissions so made by learned counsel for the parties, this court has carefully gone through the record of the case. Before proceeding further, both the parties have heavily relied upon Rule 7 of the 1999 rules which reads as under;

"7. Procedure for imposing major penalties.- Before imposing any major penalty on a Government servant, an inquiry shall be held in the following manner-

(i) The Disciplinary Authority may himself inquire into the charges or appoint an Authority subordinate to him as Inquiry Officer to inquire into the charges.

(ii) The facts constituting the misconduct on which it is proposed to take action shall be reduced in the form of definite charge or charges to be called charge-sheet. The charge-sheet shall be approved by the Disciplinary Authority:

Provided that where the Appointing Authority is Governor, the charge-sheet may be approved by the Principal Secretary or the secretary, as the case may be, of the concerned department.

(iii) The charges framed shall be so precise and clear as to give sufficient indication to the charged Government servant of the facts and circumstances against him. The proposed documentary evidences and the name of witnesses proposed to prove the same along with oral evidences, if any, shall be mentioned in the charge-sheet.

(iv) The charged Government servant shall be required to put in a written statement of his defence in person on a specified date which shall not be less than 15 days from the date of issue of charge-sheet and to state whether he desires to cross-examine any witness mentioned in the charge-sheet and whether desires to give or produce evidence in his defence. He shall also be informed that in case he does not appear or file the written statement on the specified date, it will be presumed that he has none to furnish and Inquiry Officer shall proceed to complete the inquiry ex parte.

(v) *The charge-sheet, along with the copy of documentary evidences mentioned therein and list of witnesses and their statements, if any shall be served on the charged Government servant personally or by registered post at the address mentioned in the official records in case the charge-sheet could not be served in aforesaid manner the charge-sheet shall be served by publication in a daily newspaper having wide circulation:*

Provided that where the documentary evidence is voluminous, instead of furnishing its copy with charge-sheet, the charged Government servant shall be permitted to inspect the same before the Inquiry Officer.

(vi) *Where the charged Government servant appears and admits the charges, the Inquiry Officer shall submit his report to the Disciplinary Authority on the basis of such admission.*

(vii) *Where the charged Government servant denies the charges the Inquiry Officer shall proceed to call the witnesses proposed in the charge-sheet and record their oral evidence in presence of the charged Government servant who shall be given opportunity to cross-examine such witnesses. After recording the aforesaid evidences, the Inquiry Officer shall call and record the oral evidence which the charged Government servant desired in his written statement to be produced in his defence;*

Provided that the Inquiry Officer may for reasons to be recorded in writing refuse to call a witness.

(viii) *The Inquiry Officer may summon any witness to give evidence or require any person to produce documents before him in accordance with the provisions of the Uttar Pradesh Departmental Inquiries (Enforcement of Attendance of Witness and Production of Documents) Act 1976.*

(ix) *The Inquiry Officer may ask any question he pleases, at any time of any witness or from person charged with a view to discover the truth or to obtain proper proof of facts relevant to charges.*

(x) Where the charged Government servant does not appear on the date fixed in the inquiry or at any stage of the proceeding in spite of the service of the notice on him or having knowledge of the date, the Inquiry Officer shall proceed with the inquiry ex parte. In such a case the Inquiry Officer shall record the statement of witnesses mentioned in the charge-sheet in absence of the charged Government servant.

(xi) *The Disciplinary Authority, if it considers it necessary to do so, may,*

by an order appoint a Government servant or a legal practitioner, to be known as "Presenting Officer" to present on its behalf the case in support of the charge.

(xii) The Government servant may take the assistance of any other Government servant to present the case on his behalf but not engage a legal practitioner for the purpose unless the presenting officer appointed by the Disciplinary Authority is a legal practitioner or the Disciplinary Authority having regard to the circumstances of the case so permits

Provided that this rule shall not apply in following cases:

(i) Where any major penalty is imposed on a person on the ground of conduct which has led to his conviction on a criminal charge; or

(ii) Where the Disciplinary Authority is satisfied, that for reason to be recorded by it in writing, that it is not reasonably impracticable to hold an inquiry in the manner provided in these rules; or

(iii) Where the Governor is satisfied that, in the interest of the security of the State, it is not expedient to hold an inquiry in the manner provided in these rules."

12. From the perusal of the aforesaid rules, it is apparent that when any major penalty is proposed to be imposed on a government servant, disciplinary inquiry is to be conducted either by the disciplinary authority itself or by any subordinate officer so appointed by the disciplinary authority for the purpose. The Enquiry Officer, with the approval of the disciplinary authority, shall frame the charges and supply the copy of the charge sheet to the government servant along with the material in support of the charge sheet. In the charge sheet, it was also obligated upon the Enquiry Officer to mention the name of the witnesses proposed to be examined during the enquiry proceedings as well as the material to be relied upon by the Enquiry Officer. Sub-Rule-IV of Rule-7 mandates upon the charged government servant to submit its reply / written statement to the charge sheet within the stipulated period, and in his reply, he was also obligated to categorically mention as to whether he desires to cross-examine any of the witnesses proposed in the charge sheet or whether he wants to produce any witness or any document in support of his defense. Sub-Rule-V provides for the procedure how the charge sheet is to be served upon the charged government servant. Sub-Rule-VI

provides if the charges are admitted by the charged government servant, the Enquiry Officer shall submit its report to the disciplinary authority on the basis of such admission. Sub-Rule-(vii) provides when the charges are denied by the government servant, then the Enquiry Officer shall proceed to call for the witnesses proposed in the charge sheet and record their oral evidence in presence of the charged government servant and shall also afford the opportunity to cross-examine such witnesses by the charged government servant and after recording the evidence of the witnesses proposed in the charge sheet, he will also call for the witnesses proposed by the charged government servant in his reply/written statement and thereupon conclude the proceeding, apply its mind, and submit the report.

13. In view of the aforesaid rules, if applied to the facts of the case, in the instant charge sheet, no witness was proposed by the Enquiry Officer. Therefore, there was no question of examining any witness on the part of the Enquiry Officer. Likewise, the petitioner has also not proposed any witness in his reply in support of his defence. Therefore, oral examination of any witness is not called for in the instant case at all. Therefore, it was only the charge sheet as well as the material available on record, copies whereof were already supplied to the petitioner herein, have been analyzed by the Enquiry Officer and thereupon the enquiry report has been submitted.

14. Therefore, this Court do not find any illegality in the procedure adopted by the Enquiry Officer while conducting the enquiry against the petitioner herein and submitting the enquiry report against the petitioner. The fairness of the enquiry is apparent as out of the three charges, the Enquiry Officer has exonerated the petitioner for one charge and has found guilty of the two charges. Ample opportunity was granted to the petitioner in terms of Rule-9 on submission of the enquiry report. The reply was submitted, which has been duly considered by the disciplinary authority and thereupon the impugned order of withholding two increments of the petitioner and a censure entry has been made against the petitioner herein. Therefore, this Court finds that the entire disciplinary proceedings initiated against the petitioner is fully in consonance with the Rules, 1999.

15. Therefore, this Court do not find any good ground to interfere with the impugned order dated 05.10.2023 passed against the petitioner herein. Accordingly, the Writ- A No. 12078 of 2024 is hereby **dismissed**.

16. Since the punishment order dated 05.08.2023 has already been upheld by this Court, still the petitioner is definitely entitled for other benefits barring the two increments on his retirement, which has taken place on 28th February 2025.

17. In view thereof, the Writ- A No. 15424 of 2025 is **disposed of** with a direction to the respondent no.1 to grant all the retiral dues as well as the fixation of regular pension etc. including the leave encashment and gratuity etc., to which the petitioner is entitled to subject to the order dated 05.10.2023 passed by the disciplinary authority.

(Anish Kumar Gupta,J.)

January 29, 2026

Ashish Pd.