



2026:AHC-LKO:22582

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 4705 of 2025

Ashish Kumar

.....Petitioner(s)

Versus

U.P. Power Corporation Ltd. Thru. Chairman Lko.
And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Shrish Kumar Gaur
Counsel for Respondent(s)	: Neerav Chitravanshi, Manish Jauhari

Court No. - 17

HON'BLE RAJEEV SINGH, J.

1. Heard learned counsel for the petitioner and Sri Manish Jauhari, learned counsel for the respondents.

2. The present petition has been filed with the following prayer:-

"i. to issue a writ, order or direction in the nature of certiorari to quash the impugned order of punishment dated 05.06.2023 and 29.04.2024 rejecting the appeal, as contained in annexure no.1 and 2 respectively to the writ petition.

ii. To issue a writ, order or direction in the nature of mandamus commanding the opposite parties to grant all service benefits including monetary benefits consequent upon quashing of impugned order punishment dated 05.06.2023 and 29.04.2024 rejecting the appeal, as contained in annexure no.1 and 2 respectively to the writ petition"

3. Learned counsel for the petitioner submitted that the departmental proceedings were initiated by issuance of a charge sheet dated 23.02.2021, alleging that during the course of a third-party audit, the Corporation's store as well as the records of the Junior Engineers were required to be examined. However, despite repeated directions, the petitioner failed to produce the measurement book, and M/s Gaurav Singhal and Company also failed to produce the relevant records pertaining to the work executed by the said firm.

In response to the aforesaid charge sheet, the petitioner submitted a reply before the Inquiry Committee on 18.03.2021. It is further submitted that 03.02.2021 was fixed for providing a personal opportunity of hearing; however, without proving the charges by leading evidence, the inquiry was concluded and the Inquiry Committee submitted its report. A copy of the inquiry report was thereafter supplied to the petitioner, and a reply thereto was duly submitted. However, the impugned punishment order was passed in a most mechanical manner, without proper consideration of the petitioner's defence.

4. Relying on the decision of this Court in the case of ***Krishna Kishore Srivastava vs. State of U.P. and another, reported in (2010) 4 ADJ 559***, learned counsel for the petitioner has submitted that it is well settled proposition of law that regular enquiry means after service of charge sheet, opportunity should be given to a delinquent employee to submit his reply and thereafter the department has to lead oral evidence to substantiate with due opportunity to cross examine the witnesses and after conclusion of the statements of the departmental witnesses, liberty should be given to the delinquent employee to lead evidence in defence and merely because the petitioner has not demanded to cross examine the witnesses or lead the evidence in defence, shall not fulfill the requirement of law. He has further submitted that burden to prove the charges in accordance with law rests on the shoulder of the department and in the present case the charges are vague. He also relied upon the decision of Hon'ble Supreme Court in the case of ***Jagdish Prasad Singh vs State of U.P. reported in 1990 LCD 486***.

5. Learned counsel for the petitioner has drawn the attention of this Court to the impugned order and submitted that, in his reply, it was specifically stated that the measurement book was continuously in movement from one office to another, as the audit team conducted the audit work for 3–4 days. During this period, the petitioner made efforts to collect the measurement book; however, the same could not be procured in time. It was therefore informed to the audit team that the measurement book would be produced subsequently for verification. Thereafter, the petitioner did obtain the measurement book, but by that time the audit had already been completed.

He has further submitted that no audit objection was raised by the audit team with regard to any discrepancy in the work executed or the amount paid to the contractor. Therefore, it is contended that the kind indulgence of this Court is necessary.

6. Sri Manish Jauhari, learned counsel for the respondents vehemently opposed the prayer of the petitioner and submitted that there is no illegality in the order passed by the competent authority. He has further submitted that the petitioner deliberately not placed the measurement book before the audit team and his negligence was categorically observed in the impugned order but he does not dispute the fact that there is no averment to the effect that any audit objection was raised by the audit team with regard to the work executed or the corresponding payments made.. He has further submitted that the date was fixed for oral hearing of the petitioner but he never asked that the department should place any oral or documentary evidence. Therefore, the petition is liable to be dismissed.

7. Considering the submission of learned counsel for parties and going through the contents of the petition as well as the impugned order, charge sheet, reply and the judgements relied by learned counsel for the petitioner, it is evident that in the present case there is only allegation that the measurement book was not placed before the audit team. The entire record relating to financial payments to the concerned firm corresponding to the work executed was also examined, along with the store and the records of the engineers, and no discrepancy or inconsistency was found, except for the fact that the measurement book was not initially placed before the audit team. It is also evident from the record that, after the petitioner submitted his reply to the charge sheet, the department failed to prove its case by producing any oral or documentary evidence. Instead, the punishment was imposed merely on the basis of a presumption that the petitioner was reluctant to produce the measurement book before the audit team.

8. In view of above, this Court is of the view that punishment was wrongly given by the competent authority merely on the basis of presumption and the same is liable to be set aside. Accordingly, the

impugned orders dated 05.06.2023 and 29.04.2024 are hereby set aside. Consequently, the petition is **allowed**. The service benefits of the petitioner consequent upon quashing of the impugned orders shall be considered accordingly.

(Rajeev Singh,J.)

March 31, 2026

Renu/-