



2026:AHC-LKO:22610

**HIGH COURT OF JUDICATURE AT ALLAHABAD [AFR]
LUCKNOW**

WRIT - A No. - 2632 of 2008

Hanumat Singh

.....Petitioner(s)

Versus

State Of U.P. Through Secy.And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	: S.P.Singh, Pankaj Shukla
Counsel for Respondent(s)	: C.S.C., I P Singh, M B Singh, Pramod Kumar Singh

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard learned counsel for the petitioner, Shri S.G. Singh, learned Standing Counsel for the respondents-State and Shri P.K. Singh, learned counsel for the respondent-Committee of Management.

2. By means of the present writ petition, the petitioner has prayed for issuance of a writ in the nature of Certiorari, quashing the impugned order of termination dated 16.2.2008 as contained in Annexure no.1 to the writ petition passed by the opposite party no.5, with further prayer to issue a writ in the nature of Mandamus directing and commanding the opposite parties to allow the petitioner to continue as usual on the post of Peon and to pay him salary and allowances regularly with all consequently benefits.

3. Factual matrix of the case is that father of the petitioner was working in Kanha Shiksha Niketan Inter College, Kahina Bazar, District Raebareli as Duftary who died in harness on 20.4.2003. The petitioner applied for appointment on compassionate grounds and he was granted appointment under Regulation 103 to 109 of the Regulations framed under Chapter III of the Intermediate Education Act on 2.8.2003. In pursuance to the appointment order, the Principal of the Institution issued joining letter on 7.8.2003 and in pursuance thereto, the petitioner joined in the Institution and started discharging duties on Class IV post in the Institution in question.

The petitioner absented from duties for two days on 24.4.2006 and

25.4.2006 and thereafter, he came to join in the Institution and the Principal of the Institution issued show cause notice in regard to absence from duty on 27.4.2006. The petitioner submitted reply on 22.5.2006. Notice was again issued to the petitioner by the Principal of the College on 30.6.2006 and in pursuance thereof, the petitioner submitted detailed reply in regard to absence from duty for two days on 1.7.2006. The Principal of the Institution without initiating disciplinary proceedings in the matter against the petitioner has passed the order of termination dated 16.2.2008.

Feeling aggrieved, the petitioner has filed the present writ petition wherein an interim order was granted on 22.5.2008 which is being quoted below:

"Heard Sri S.P. Singh, learned counsel for the petitioner and learned Standing Counsel.

The petitioner earlier filed Writ Petition No.664 (S/S) of 2008 for payment of salary. Now, by means of the impugned order the petitioner's services have been terminated.

In view of the above, the impugned seems to have been passed in violation of principles of natural justice.

Accordingly, till further orders of this Court, the petitioner shall be paid salary subject to approval of the D.I.O.S. and the petitioner shall be permitted to continue in service.

List in the month of July, 2008."

In pursuance to the interim order, learned counsel for the respondent-Committee of Management and Principal of the Institution states that the petitioner was permitted to continue and was paid salary.

4. Submission of learned counsel for the petitioner is that without initiating disciplinary proceedings against the petitioner, impugned termination order has been passed, therefore, it is nullity and unsustainable in law. In regard to initiation of a disciplinary proceedings to an employee of the Intermediate College, under Regulations 31

onwards, procedure has been prescribed to initiate disciplinary proceedings, but in the present case, procedure has not been followed by the Principal of the College. In this view of the matter, the order impugned vitiates in law and is liable to be set aside.

5. Next submission of learned counsel for the petitioner is that in pursuance to the interim order granted in the writ petition, the petitioner was permitted to continue and paid salary, which fact has not been disputed by learned counsel for the respondent no.5.

6. On the other hand, Shri S.G. Singh, learned Standing Counsel submits that in the counter affidavit, details have been stated that the petitioner is not working in the Institution and has not been paid salary till date.

7. Having heard the rival submissions of learned counsel for the parties, I have perused the material on record.

8. In paragraph 2 of the writ petition, the petitioner has clearly stated that the impugned order has been passed without issuing notice and without giving opportunity of hearing to him, therefore the order impugned has been passed in gross violation of principles of natural justice. This fact has not been disputed by learned counsel for the respondents either in counter affidavit or in oral submission before this Court.

9. In the opinion of this Court, the order impugned dated 16.2.2008 is being violative of principles of natural justice and is liable to be set aside. The impugned order has not been challenged in appeal in view of the fact that the order has been passed without affording opportunity of hearing.

10. In the case of **Whirlpool Corpn. v. Registrar of Trade Marks** reported in **(1998) 8 SCC 1: 1998 SCC OnLine SC 663**, it has been held that statutory alternative remedy is not bar in case the order is wholly without jurisdiction and has been passed in violation of principles of natural justice.

11. In view of the reasons recorded above and on the facts and circumstances of the case, this Court is of the considered opinion that without initiating disciplinary proceedings and without affording

opportunity of hearing, the impugned order dated 16.2.2008 has been passed.

12. Accordingly, this writ petition succeeds and is **allowed** with all consequential benefits.

13. However, the respondents are directed to permit the petitioner to continue on Class IV posts and to pay him salary regularly month by month.

(Irshad Ali,J.)

March 31, 2026

GK Sinha