

Court No. - 34

Case :- WRIT - A No. - 14913 of 2023

Petitioner :- Sanjay Kumar Upadhyay

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Kailash Singh Kushwaha

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar,J.

1. Heard learned counsel for the parties.
2. Petitioner was initially suspended on 29.11.2021 for alleged leak of question paper in UPTET Examination held in the year 2021. However, no chargesheet was issued to him until this Court entertained this petition on 15.09.2023 asking the respondents as to why the chargesheet has not been issued despite suspension order passed in contemplation of enquiry. The chargesheet has been issued to the petitioner only on 03.10.2023 though it is dated 12.05.2023. It is not disclosed in the entire covering letter as to why the respondents consider it still necessary to keep him under suspension. Such prolonged suspension without serving any chargesheet upon a delinquent employee is against the settled principle of law.
3. In the circumstances therefore, while I do not wish to interfere in the disciplinary proceedings, I find substantial ground to put the suspension of the petitioner in abeyance until the conclusion of enquiry.
4. Accordingly, this petition stands ***disposed of*** at this stage with the direction that the petitioner, if not has submitted reply, he shall be submitting the same within a period of four weeks from today with whatever document available to him and the demanded document may be shown to him in the oral enquiry which will be held by the respondents under Rule 7 of the Uttar Pradesh Government Servants (Discipline and Appeal) Rules, 1999. After the reply of petitioner, departmental enquiry shall be concluded within next one month provided

petitioner cooperates. Soon after the departmental enquiry is completed and thereafter, if necessary as per the recommendations made in the enquiry report disciplinary proceedings shall also be concluded in the next two months' time as per the procedure prescribed for. Petitioner shall be cooperating at every stage of departmental enquiry or disciplinary proceedings and then the final order shall be passed in respect of disciplinary proceedings by the authority, in any circumstances on or before 31.03.2024.

5. Until the disciplinary authority passes a final order or till 31.03.2024 whichever is earlier, the suspension of the petitioner shall remain in abeyance and petitioner shall be permitted to discharge duties and shall be paid salary. The fate of the suspension order will depend upon the final order to be passed in disciplinary proceedings.

Order Date :- 28.11.2023

Deepika