

Court No. - 8

Case :- WRIT - A No. - 4480 of 2023

Petitioner :- Mata Deen Yadav

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home And 4 Others

Counsel for Petitioner :- Sanjeev Kumar Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh,J.

1. Heard learned counsel appearing for the accused-petitioner and learned Standing Counsel appearing for the State.
2. Present petition under Article 226 of the Constitution of India has been filed against the order dated 16.03.2023 passed in compliance of the judgment and order dated 03.02.2023 passed by this Court in Writ Petition No.4312 of 2020, which was disposed of by following order:-

"Heard learned counsel for petitioner and learned Standing Counsel for the State.

The petitioner, who is a Home Guard, has approached this Court challenging the order dated 20.11.2019.

Learned counsel for the petitioner states that the petitioner has been disengaged on the ground of his punishment in a criminal case under Sections 147,323,302 I.P.C. He further submits that earlier a Government Order, on the basis of which, he was disengaged stands superseded by a Government Order dated 22.10.2020 which provides that after the bail the suspension is to be cancelled and the persons are to be permitted to join on duty again. He further states that the petitioner is on bail.

Learned counsel for petitioner submits that grievance of petitioner would be sufficiently met in case representation of petitioner for the said purposes is considered and decided in a time bound manner.

Learned Standing Counsel has no objection to the same.

In view thereof, petitioner is permitted to make a fresh detailed representation to respondent no.5-District Commandant of Home Guard, Sultanpur/Amethi, raising all his grievance, annexing therewith a copy of this writ petition along with the Government Order dated 22.10.2020, bail order and all the documents in support of his claim within a period of ten days from today along with a certified copy of this order.

In case such a representation is moved by petitioner, respondent no.5, shall consider and decide the same in accordance with law by a reasoned and speaking order within a period of six weeks from the date a certified copy of this order along with representation is placed before him.

It is made clear that this court has not applied itself on the merits of the case and all questions are left open to be considered and decided by the competent authority in accordance with law.

With the aforesaid directions, present writ petition is disposed of. "

3. Petitioner's representation has been decided vide impugned order and same has been rejected. The petitioner, posted as a Home Guard, was an accused for offences registered under Sections 147, 323, 302 IPC, Police Station Kotwali Dehat, District Sultanpur. The petitioner has been convicted by the Sessions Court vide judgment and order dated 02.09.2013. After conviction, the petitioner was issued show cause notice and after considering his reply, he was dismissed from service. The petitioner has instituted an appeal against the judgment and order passed by the trial court convicting him, however, the judgment of conviction has not been stayed. The petitioner has only been enlarged on bail. It is well settled that suspension of sentence and staying the conviction are two different aspects of the matter.

4. Admittedly, petitioner's conviction has not been stayed. I find no substance in the writ petition, which is hereby ***dismissed***.

(Dinesh Kumar Singh, J.)

Order Date :- 3.7.2023
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