



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			SPA No. 369 of 2017 <u>Hon'ble Manoj Kumar Tiwari, J.</u> <u>Hon'ble Vivek Bharti Sharma, J.</u> Mr. B.D. Upadhyaya, Senior Advocate, assisted by Mr. Tushar Upadhyaya, Mr. Sunil Upadhyaya and Ms. Sheetal, Advocates for the appellant. 2. Ms. Mamta Bisht, Deputy Advocate General for the State of Uttarakhand / respondent no. 1. 3. Mr. Shubhang Dobhal, Advocate for respondent nos. 2 & 3. 4. This intra court appeal is directed against judgment and order dated 17.05.2017, passed by learned Single Judge in Writ Petition (S/S) No. 550 of 2015. By the said judgment, writ petition filed by appellant, challenging the order of termination of his service, was dismissed. The reason assigned for dismissing the writ petition was that the appellant/writ petitioner had admitted his guilt before the Enquiry Officer and also before the Vice Chancellor of the University, therefore, there was no need to hold full fledged enquiry. 5. Learned Senior Counsel appearing for the appellant submits that no chargesheet was issued to the appellant/writ petitioner, therefore, there was no occasion of appellant's statement being recorded before the Enquiry Officer. He submits that the Enquiry Officer referred to in paragraph no. 5 of the impugned judgment was in fact an officer who was holding preliminary / fact finding enquiry, therefore, statement if any, made during the course of preliminary enquiry cannot be used against him to hold him guilty. Thus, he submits that since punishment of removal from service was imposed upon the appellant / writ petitioner without holding disciplinary enquiry, therefore,



		challenge thrown by the appellant to the punishment order was liable to be allowed and learned Single Judge erred in dismissing the writ petition by misconstruing the preliminary enquiry as the formal disciplinary enquiry. 6. Learned Senior Counsel appearing for the appellant relied upon the law declared by Hon'ble Apex Court in the case of <i>Roop Singh Negi v. Punjab National Bank and others</i>, reported in (2009) 2 SCC 570, for contending that '<i>so called confession itself is not sufficient to prove the guilt and some evidence has to be brought on record that appellant was involved in stealing</i>'. 7. Per contra, Mr. Shubhang Dobhal, learned Counsel appearing for the University submits that appellant / writ petitioner has directly filed the writ petition without availing remedy of Appeal in terms of Clause 4 (d) (ii) of Chapter XXV of the Statutes of the G.B. Pant University of Agriculture and Technology. 8. This submission made on behalf of the University is not disputed by learned counsel for the appellant. 9. Since appellant has a remedy of Appeal, therefore, without expressing any opinion on the final merits of the case, we dispose of this Appeal by permitted the appellant / writ petitioner to file an Appeal before the Board of Management, within three weeks from today. If appellant files Appeal within stipulated time, then Board of Management shall consider and decide the same, as per law, within two months. It goes without saying that the Board of Management shall decide the Appeal, independently, without being influenced by the judgment rendered by learned Single Judge, which is impugned this Appeal. (Vivek Bharti Sharma, J.) (Manoj Kumar Tiwari, J.) 05.03.2025 Navin
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