



2025:AHC:172081

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 14555 of 2025

Santosh Kumar

.....Petitioner(s)

Versus

State Of Uttar Pradesh And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Arvind Srivastava, Maneesh Kumar
Counsel for Respondent(s)	:	C.S.C., Purnendu Kumar Singh

Court No. - 5

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Heard Sri Arvind Srivastava, learned counsel for petitioner and Sri Purnendu Kumar Singh, learned counsel for respondent Nos. 2, 3 and 4.
2. The petitioner, a TG-2 with the respondent Dakshinanchal Vidyut Vitran Nigam Limited was put under suspension by an order 28.08.2025. The order of suspension was passed by engineer Manoj Kumar Singh, the then Executive Engineer of Vidyut Vitran Nigam, Karvi, District- Chitrakoot.
3. In the impugned order, it has been mentioned that petitioner has not followed the directions of higher Officers and has failed to do the concerned work for new connections under झटपट, निवेश मित्र एंव पी०टी० डब्ल्यू and such matters remain pending for considerable period.
4. Learned counsel for petitioner submits that Officer who has passed the impugned order has suffered with an inquiry on same allegations and an adverse order was also passed against him and he refers an inquiry report dated 28.08.2025 as well as that on 29.08.2025, the said Officer was transferred to another place.
5. Learned counsel for petitioner further submits that in order to take revenge, the said Officer has put petitioner under suspension though, letter of suspension order is dated 28.08.2025 but it was antedated. Learned counsel for petitioner also refers paragraph Nos. 14 and 16 of writ petition that impugned order is suffered with malafides.
6. Learned counsel for petitioner has also placed reliance on a judgment passed by Division Bench of this Court in **Subash Chand, Sumer Prasad**

Vs. State of U.P., 2005 0 Supreme (All) 1671 that if suspension order does not contain the substantial grounds, that it could not be sufficient to initiate inquiry, the suspension order may not be interfered and that in such circumstances malafides may be taken note of.

7. Per contra, learned counsel for respondent appearing on behalf of respondent Nos. 2, 3 and 4 has supported the impugned order that allegation of antedated order may not be considered at this stage since it would be a subject matter of inquiry proceedings, if initiated. The petitioner cannot deny that he has responsibility to expedite the complaints of new connections and that argument of scapegoat is unsustainable. Learned counsel for respondent also fairly submits that on basis of limited instructions, it can be stated that till date no charge-sheet has been issued though it is contemplated.

8. I have considered the above submissions and perused the record. The petitioner is T.G.-2 employee with the respondent and at this stage, he cannot deny that he has no such responsibility from material on record of writ petition. The Officer who has put the petitioner under suspension has suffered an inquiry and was transferred on 29.08.2025, therefore, he was the appropriate Authority on the day of suspension order was passed. The allegation of antedated order is a disputed fact, which cannot be look into at this stage.

9. The arguments that Court may also scrutinize the reasons, allegations mentioned in impugned suspension order that whether it would be sufficient to initiate inquiry or not would invite this Court to go into the arena of disputed fact even, before the Disciplinary Authority may take any action on basis of inquiry report, where the petitioner has ample opportunity to place his case.

10. The Court also takes note of **Subash Chand, Sumer Prasad (supra)** that suspension order may require satisfaction with regard to allegation and that there must be a firm decision to initiate inquiry. In **Subash Chand, Sumer Prasad (supra)**, the Supreme Court has also taken note that for a substantial period after order of suspension, no inquiry was infact initiated, therefore, order of suspension was interfered that suspension order should not be restored for indefinite period without holding any departmental inquiry or without any other justification. The Court also takes note of paragraph No.53 of **Subash Chand, Sumer Prasad (supra)** and for

reference the same is reproduced hereinafter :-

"(53) At this juncture it is necessary to make it clear that under the relevant rules regarding the suspension it is not necessary that order must recites the allegations in the detail in the form of charges which are required to be framed and incorporated in the charge-sheet, while initiating formal disciplinary inquiry for imposing major penalties. Besides this, since suspension pending inquiry is not punishment and charge could be framed and communicated at the stage of initiation of inquiry and principle of natural justice is also not attracted at very threshold of suspension as held by Hon'ble Apex Court in S. Pratap Singh Vs. State of Punjab, A.I.R. 1964 SC 72, wherein a constitution Bench of Hon'ble Apex Court in para 55 of the decision has held," the order suspending the Government servant pending enquiry, is partly an administrative order. What has been held to be quasi-judicial is the enquiry instituted against the Government servant on the charges of misconduct, an enquiry during which under the rules it is necessary to have an explanation of the Government servant to the charges and to have oral evidence, if any, recorded in his presence and then to come to a finding. None of these steps is necessary before suspending a Government servant pending enquiry. Such orders of suspension can be passed if the authority concerned, on getting a complaint of misconduct, considers that the alleged charge does not appear to be groundless, that it requires enquiry and that it is necessary to suspend the Government servant pending enquiry." Thus, in view of aforesaid discussion it is clear that unless charges are framed or charge-sheet is issued and served upon the petitioner or produced before the court or the records containing complaint bearing allegations are produced before the Court, it is very difficult for us to hold that the allegations are vague or flimsy in nature at its face value and do not constitute misconduct of serious nature without having perused the record, which has not been placed before us. Therefore, the submission of learned counsel for petitioner in this regard is wholly misplaced and decision cited by him is also distinguishable on facts. "

11. As referred above, the Division Bench has specifically observed that "unless charges are framed or charge-sheet is issued and served upon the petitioner or produced before the court or the records containing complaint bearing allegations are produced before the Court, it is very difficult for us to hold that the allegations are vague or flimsy in nature at its face value and do not constitute misconduct of serious nature without having perused the

record, which has not been placed before us. Therefore, the submission of learned counsel for petitioner in this regard is wholly misplaced and decision cited by him is also distinguishable on facts."

12. The Division Bench after mentioning aforesaid observation, further takes note that inquiry was not initiated even after 2 years of suspension, therefore, there were valid reasons for set aside the order of suspension.

13. So far as the present case is concerned, as referred above, the impugned order was passed on 28.08.2025 i.e. just 4 weeks ago, therefore, at this stage, the Court cannot be held that petitioner is under suspension for a very long period. The question of malafide cannot be answered at this stage since any observation of this Court will prejudice the case of either of parties as well as at this stage, if argument of learned counsel for petitioner is accepted, the Court will enter in the arena of disputed facts which is prohibited to a very extent in the writ jurisdiction.

14. Even after observing the aforesaid observations, the Court takes note that inquiry report submitted against respondent No.5, the order of suspension and the order of transfer was passed within a period of one day, therefore, it may be a case that a decision to pass an order of suspension was taken in haste, therefore, it cast more responsibility upon the respondent that in case, if they want to initiate a disciplinary inquiry against the petitioner, they have to expedite it, however, even after four weeks, it has not yet initiated, therefore, at this stage, the Court is not interfering with impugned order, however, taking note of aforesaid observations, this writ petition is **disposed of** that in case respondent fails to issue a charge-sheet within 7 days, the impugned suspension order shall be kept in abeyance alternatively in case, charge-sheet is issued within 7 days and inquiry report with the co-operation of petitioner is not submitted within 6 weeks, thereafter, also the suspension order will be kept in abeyance, subject to outcome of Disciplinary Proceedings.

September 24, 2025
P. Pandey

(Saurabh Shyam Shamshery,J.)