



2026:000:111813

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 7245 of 2026

Osan Singh

.....Petitioner(s)

Versus

The State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s) : Arya Gautam, Atipriya Gautam, Jay Vishwanath Pandey, Sr. Advocate
Counsel for Respondent(s) :

Court No. - 6

HON'BLE PRAKASH PADIA, J.

1. Heard Sri VIjay Gautam, learned Senior counsel assisted by Ms. Atipriya Gautam, learned counsel for the petitioner and learned Standing Counsel for the State-respondents.

2. The petitioner is aggrieved by the order dated 06.03.2026 whereby he has been awarded minimum pay scale for a period of three year on the basis of the recommendation made by the inquiry officer.

3. Learned counsel for the petitioner submits that the disciplinary authority has simply acted upon the recommendation of the inquiry officer in giving a show cause notice to the petitioner of the proposed punishment which was recommended by the inquiry officer which could not have been done under the law. He submits that the domain of the inquiry officer is to furnish the inquiry report after evaluating the evidence adduced before it by the department as also by the delinquent employee. Inquiry officer can only hold the delinquent employee guilty of the charges. After the inquiry report is submitted, it lies next within the domain of the disciplinary authority to look into the report and to either concur with the findings of the inquiry report or take otherwise view. In the event disciplinary authority concurs with the findings of the inquiry officer, a show cause of the proposed punishment would be issued to the delinquent employee inviting his objection/reply.

4. In the instant case, it is submitted that after the inquiry officer submitted his report on 13.08.2025, in which he had also made a recommendation for the punishment of minimum pay scale for a period of three year in respect of

petitioner and so a show cause notice got issued on 27.08.2025.

5. Counsel for the petitioner has relied upon the judgment of Division Bench of this Court in the case of ***Mohd. Haneef Khan vs. State of UP in Service Single No.314 of 2010*** decided on 3rd April, 2017 in which vide paragraphs 11, 12, & 13, the Court has held thus:

"11. Learned counsel for petitioner contended that absence was not without any valid reason and that has been discredited by Inquiry Officer arbitrarily and without considering relevant material, therefore, entire proceedings are vitiated in law. He placed reliance on Supreme Court's judgment in Union of India v. H.C. Goel, AIR 1964 SC 364.

12. Second, it is submitted that manifest illegality committed by Inquiry Officer in recommending punishment of dismissal in its inquiry report itself and that too by looking into past record of petitioner, which was not a charge. In this regard he referred to Appendix I read with Rule 14(1) of "U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991" (hereinafter referred to as the "Rules, 1991"). Aforesaid provision permits Inquiry Officer to make his recommendation regarding punishment. It reads as under:

"APPENDIX-I

PROCEDURE RELATING TO THE CONDUCT OF DEPARTMENTAL PROCEEDINGS AGAINST POLICE OFFICER

Upon institution of a formal enquiry such police officer against whom the enquiry has been instituted shall be informed in writing of the grounds on which it is proposed to take action and shall be afforded an adequate opportunity of defending himself. The grounds on which it is proposed to take action shall be used in the form of a definite charge or charges as in Form I appended to these Rules which shall be communicated to the charged police officer and which shall be so clear and precise as to give sufficient indication to the charged police officer of the facts and circumstances against whom. he shall be required, within a reasonable time, to put in, in a written statement of his defence and to state whether he desires to be heard in person. If he so desires, or if the Inquiry Officer

so directs an oral enquiry shall be held in respect of such of the allegation as are not admitted. At that enquiry such oral evidence will be recorded as the Inquiry Officer considers necessary. The charged police officer shall be entitled to cross-examine the witnesses, to give evidence in person and to have such witnesses called as he may wish:

Provided that the Inquiry Officer may for sufficient reasons to be recorded in writing, refuse to call a witness. The proceedings shall contain a sufficient record of the evidence and statement of the findings and the ground thereof. The Inquiry Officer may also separately from these proceedings make his own recommendation regarding the punishment to be imposed on the charged police officer."

13. This aspect has already considered in State of Uttranchal and others Vs. Kharak Singh, 2008(8) SCC 236 and Court has held, if in inquiry report, punishment is also recommended by Inquiry Officer, it is a grave illegality for the reason that appropriate punishment is the exclusive jurisdiction of punishing or disciplinary authority and Inquiry Officer's only job is to enquire, whether charge levelled against delinquent employee is proved or not."

6. Learned Standing Counsel, on the contrary, submits that in the show cause notice though the respondents concurs with the findings but certain more discussion has taken place while countering with the findings of the inquiry officer, and, therefore, it cannot be said that there is no independent application of mind.

7. Having heard learned counsel for the respective parties and having perused the record, I find that after the inquiry was conducted by the inquiry officer, he held the petitioner guilty of charges vide finding part of report but at the same time in the concluding part, he made a recommendation to the effect that in view of Rule 14 (1) of the UP Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991, the petitioner be placed minimum pay scale for a period of three years.

8. What is interesting to notice is that the inquiry officer not only recommends the proposed punishment but also records that it will be operative with the approval of the authority. It, therefore, transpires as if the

inquiry officer was robed with the power of disciplinary authority in making recommendation and passing orders.

9. The finding part as to the proposed punishment by the inquiry officer is reproduced as under:

निष्कर्ष:

विभागीय कार्यवाही के मध्य संकलित साक्ष्य एवं पत्रावली पर उपलब्ध अभिलेखीय साक्ष्यों के अवलोकन से पाया गया कि आरोपी उ०नि० औसान सिंह (पीएनओ-882480147) द्वारा चौकी प्रभारी आवास विकास थाना कासगंज के पद पर नियुक्ति के दौरान शिकायतकर्ती श्रीमती ओमवती उर्फ रिया पुत्री लालमन निवासी अब्दुल्लागंज थाना उझानी जनपद बदायूँ के शिकायती प्रार्थना-पत्र (आईजीआरएस सन्दर्भ) पर सम्पूर्ण तथ्यों के जानकारी के होने के बावजूद भी जानबूझकर त्रुटिपूर्ण आख्या प्रेषित की गयी तथा शिकायतकर्ती श्रीमती ओमवती उर्फ रिया उपरोक्त के साथ आरोपी उ०नि० श्री औसान सिंह द्वारा देर रात्रि में वीडियो कॉल तथा अश्लील चैट की गयी। इस सम्बन्ध में उ०नि० औसान विरुद्ध थाना कासगंज पर मु०अ०सं०-782/23 धारा-354घ/509 भादवि व 67 आई०टी० एक्ट पंजीकृत कराया जिसकी विवेचना / विवेचक निरी० श्री सुधीर कुमार राघव तत्कालीन प्रभारी निरीक्षक कासगंज द्वारा ग्रहण कर सम्पादित की गयी तथा बाद विवेचना उ०नि० औसान सिंह के विरुद्ध जुर्म धारा-354घ/509 भादवि व 67 आई०टी० एक्ट बखूबी प्रमाणित पाते हुए आरोप पत्र संख्या-677/23 दिनांकित-27.12.2023 को किता कर विवेचना समाप्त की गयी है। आरोपी उ०नि० औसान सिंह (पीएनओ-882480147) द्वारा चौकी प्रभारी आवास-विकास के पद पर नियुक्ति के दौरान शिकायतकर्ती श्रीमती ओमवती उर्फ रिया द्वारा आईजीआरएस पर प्रेषित शिकायती प्रार्थना-पत्र पर समस्त तथ्यों की जानकारी होने के बावजूद भी त्रुटिपूर्ण आख्या प्रेषित किये जाने तथा अपने पद का दुरुपयोग करते हुए देर रात्रि एवं दिन में कई-कई बार व्हाट्सएप पर वीडियो कॉल/ऑडियो तथा व्हाट्सएप पर उपरोक्त वर्णित मैसेज प्रेषित किये गये तथा शिकायतकर्ती के मोबाइल नम्बर पर ऑडियो कॉल कर अश्लील वार्ता तथा अपशब्दों का प्रयोग कर उत्तर प्रदेश सरकारी कर्मचारी आचरण नियमावली 1956 का उल्लंघन है। आरोपी उ०नि० औसान सिंह का यह कृत्य उ०प्र० अधीनस्थ श्रेणी के पुलिस अधिकारियों/कर्मचारियों की (दण्ड एवं अपील) नियमावली 1991 के नियम 4(01) (क) के अन्तर्गत कदाचरण, घोर अनुशासनहीनता, पद का दुरुपयोग किये जाने के लिए दोषी पाता हूँ। आरोपी उ०नि० औसान सिंह को उ०प्र० अधीनस्थ श्रेणी के पुलिस अधिकारियों की (दण्ड एवं अपील) नियमावली 1991 के नियम 4 (क) (3) के अन्तर्गत 03 वर्ष के लिये

न्यूनतम वेतन पर प्रत्यावर्तित किये जाने का दण्ड प्रस्तावित किया जाता है, जो पुलिस अधीक्षक कासगंज के अनुमोदन के उपरांत प्रभावी होगा

10. It is, thus, quite apparent that even if the a show cause notice was issued by the disciplinary authority but the manner in which the report was submitted cannot be approved of and so there left no room for discretion to be exercised by the disciplinary authority in view of the law as laid down by the Division Bench of this Court (supra).

11. This petition, therefore, deserves to be allowed by quashing the only recommendation part of the inquiry officer's report dated.

12. The order passed by the disciplinary authority dated 06.03.2026 is also hereby quashed. Part of the inquiry report dated 13.08.2025 to the extent it makes recommendation is also quashed. Consequences to follow.

13. Matter is remitted to the stage of report of the inquiry officer.

14. It will be open for the disciplinary authority now to issue a fresh show cause notice to the petitioner to invite objection /reply and thereafter disciplinary authority shall proceed afresh in the matter to pass order.

15. With the aforesaid observations and directions, petition stands **allowed**.

(Prakash Padia,J.)

May 14, 2026

Swati