HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 18622 of 2008

Sanjeev Kumar

.....Petitioner(s)

Versus

State of U.P. and Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ashok Khare, Siddharth Khare
Counsel for Respondent(s)	:	C.S.C.

Court No. - 34

(SN.55)

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Kanishk Shukla, Advocate holding brief of Sri Siddharth Khare, learned counsel for the petitioner and Sri Anand Mani Tripathi, learned Standing Counsel for the State.

2. The instant petition has been filed by the petitioner with the following prayers:

> *"1. a writ, order or direction in the nature of certiorari quashing the order dated 19.3.2008 passed by the Commandant, 38th/45th Battalion, P.A.C., Aligarh (Annexure No. 1 to the writ petition).*
>
> *2. a writ, order or direction of suitable nature commanding the respondents not to interfere in the functioning of the petitioner as a constable at 45th Battalion, P.A.C., Aligarh and to pay the petitioner his regular monthly salary on the said post regularly every month."*

3. The briefly stated facts of the case are that the petitioner herein was selected and appointed as Constable in Provincial Armed Constabulary (PAC) in the year 2004. He has successfully completed the training and thereupon, he was posted as Constable in 45th Battalion PAC on 17.11.2005. The minimum qualification for the aforesaid selection and

appointment was High School Examination, which the petitioner has passed in 3rd Division from Kisan Adarsh Higher Secondary School, Dankaur, Gautam Buddha Nagar in the year 2000 and the certificate of the High School as well as the Intermediate Examination passed by the petitioner in the year 2002 have been annexed along with the instant petition and there is no dispute with regard to the aforesaid certificates of High School and Intermediate passed by the petitioner.

4. On the basis of an unnamed complaint received by the respondents, an inquiry was conducted with regard to the transfer certificate of VIII pass submitted by the petitioner while taking admission in the IX Class in the Kisan Adarsh Higher Secondary School, Dankaur, which on an *ex parte* inquiry was found by the respondents to be a fake / forged transfer certificate. Thereupon, the impugned order of cancellation of the appointment of the petitioner has been passed on 19.03.2008 without affording any opportunity of hearing to the petitioner on the basis of the aforesaid letter received from the Principal, Haridwari Lal Janhit Higher Secondary School, Nilauli Mirzapur Gautam Buddha Nagar, vide its letter dated 29.10.2007, whereby it has been communicated that the transfer certificate has not been issued in favour of the petitioner regarding passing of Class VIII.

5. It is an admitted position that no opportunity whatsoever has ever been afforded to the petitioner to explain the circumstances and otherwise also there is no doubts / cloud on the certificates of High School Marksheet and certificate of High School as well as Intermediate passed by the petitioner. In such circumstances, vide an interim order dated 10.04.2008, this Court has stayed the operation of the impugned order dated 19.03.2008. Consequent thereupon, the petitioner herein is continuously working as Constable in PAC.

6. Learned Standing Counsel for the State is not in a position to make any averments that any opportunity whatsoever has ever been granted to the petitioner before passing the impugned order nor the same is reflected from the impugned order.

7. In such view of the matter, the impugned order is not sustainable in law

and thus, the same is hereby ***quashed***. The writ petition is ***allowed*** accordingly.

(Anish Kumar Gupta,J.)

October 23, 2026
Shubham Arya

Digitally signed by :-
SHUBHAM ARYA
High Court of Judicature at Allahabad