2026:AHC:227359-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL No. - 1233 of 2026

Narain Singh

.....Appellant(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Gopal Misra, Utkarsh Shukla
Counsel for Respondent(s)	:	C.S.C.

Court No. - 39

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.

1. Heard Sri Gopal Misra, learned counsel for the appellant-petitioner, Sri Arimardan Singh Rajpoot, learned Additional Chief Standing Counsel for the State-respondents and perused the record.

2. Present intra-Court appeal has arisen against the order of the learned single judge dated 06.08.2026 in Narain Singh vs. State of U.P. and 3 others, 2026:AHC:165180. By that order the learned single judge has dismissed the writ petition filed by the petitioner, to challenge the order dated 31.03.2008, whereby the petitioner was dismissed from service with effect from 21.09.2006, i.e., the date of conviction suffered by the petitioner in Sessions Trial No.146 of 2003 (State vs. Smt. Rama), under Section 4 of the Dowry Prohibition Act, 1961 read with Sections 498, 304B IPC whereunder the petitioner has been sentenced for 10 years imprisonment.

3. The learned single judge has dismissed the writ petition on the following reasoning:

> *"**(i)Where any major penalty is imposed on a person on the ground of conduct which has led to his conviction on a criminal charge; or***
>
> *(ii)Where the disciplinary authority is satisfied that for reason to be recorded by it in writing, that it is not reasonably practicable to hold an inquiry in the manner provided in these rules; or*
>
> *(iii)Where the Governor is satisfied that, in the interest of the security of the State, it is not expedient to hold an inquiry in the manner provided in these rules."*

8. The proviso (i) to Rule 7 of 1999 Rules specifically provided that the procedure provided in Rule 7 of these rules shall not apply where any major penalty is imposed on a person on the ground of conduct which has led to his conviction on a criminal charge.

9. In the instant case, the services of the petitioner were dismissed on the ground of his conviction in the criminal case and sentence of 10 years imprisonment. In such view of the matter, the procedure as provided in the 1999 Rules is not required to be followed by the disciplinary authority. In such view of the matter, this Court do not find any illegality in the impugned order dated 31.03.2008 as well as the orders passed by the Appellate Authority on 14.09.2010 in the appeal preferred by the petitioner herein. Likewise, there is no illegality in the impugned order dated 27.08.2020, whereby the representation of the petitioner has been rejected.

10. Consequently, the instant writ petition fails and accordingly dismissed. "

4. Submission is, an error on principle has crept in the proceedings inasmuch as though it may be true that the petitioner had suffered conviction, it is equally true that the appeal thereagainst being Criminal Appeal No.5869 of 2006 is still pending before this Court.

5. In any case, the law on the point is unambiguously clear as was laid down by the Supreme Court in **Union of India and another vs. Tulsiram Patel, AIR 1985 SC 1416**. Following the same, a coordinate bench of this Court in **Biresh Kumar vs. State of U.P. and 2 others, 2014:AHC:187470-DB** made the following pertinent discussion:

"Article 311 of the Constitution, insofar as is material, provides as follows:

*"**311. Dismissal, removal or reduction in rank of person employed in civil capacities under the Union or a State.**--(1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.*

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges:

Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:

Provided further that this clause shall not apply--

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry."

The provisions of Clause (a) of the second proviso to Clause (2) of Article 311 of the Constitution have been construed in the judgment of the Constitution Bench of the Supreme Court in ***Union of India and another v. Tulsiram Patel (supra)****, where it has been held as follows:*

"127. ..... To recapitulate briefly, where a disciplinary authority comes to know that a government servant has been convicted on a criminal charge, it must consider whether his conduct which has led to his conviction was such as warrants the imposition of a penalty and, if so, what that penalty should be. For that purpose it will have to peruse the judgment of the criminal court and consider all the facts and circumstances of the case and the various factors set out in Challappan's case (AIR 1975 SC 2216). This, however, has to be done by it ex parte and by itself. Once the disciplinary authority reaches the conclusion that the government servant's conduct was such as to require his dismissal or removal from service or reduction in rank he must decide which of these three penalties should be imposed on him. This too it has to do by itself and without hearing the concerned government servant by reason of the exclusionary effect of the second proviso. The disciplinary authority must, however, bear in mind that a conviction on a criminal charge does not automatically entail dismissal, removal or reduction in rank of the concerned government servant."

In the present case, the order of termination does not indicate that the disciplinary authority had applied its mind to the nature of conviction or to the question as to whether the conduct of the Government servant was such as to require his dismissal or removal from service. The decision in ***Union of India and another v. Tulsiram Patel (supra)*** *specifically requires the disciplinary authority to bear in mind that a conviction on a criminal charge does not automatically entail dismissal, removal or reduction in rank. "*

6. Thereafter, the coordinate bench allowed the Special Appeal filed by Biresh Kumar. The award of penalty was set aside and the matter remitted to the Disciplinary Authority to pass a fresh order in light of the decision

of the Supreme Court and to then determine whether the conduct of that petitioner-appellant was such as may warrant his removal or reduction in rank within the meaning of proviso (a) to Clause (2) of Article 311 of the Constitution of India.

7. Here as well, the petitioner was a Collection Amin appointed on permanent basis, when he was visited with the penalty order. The penalty order itself is based on nothing else but the fact that the petitioner suffered from conviction at the criminal trial. The order dated 31.03.2008 reads as below:

> "जाँच अधिकारी तत्कीन तहसीलदार (सदर) आगरा को आख्या दिनांक 22.02.2007 से अवगत कराया है कि श्री नरायन सिंह संग्रह अमीन (निलम्बित) सदर तहसील, आगरा को माननीय विशेष न्यायाधीश (ई.सी. एक्ट) अपर सत्र न्यायाधीश आगरा के न्यायलय द्वारा सत्र परीक्षण संख्या 146/2003 राज्य बनाम श्रीमती रमा पत्नी श्री नरायन सिंह अंतर्गत धारा-4 दहेज प्रतिषेध अधिनियम धारा 498ए, 304बी, भा.द.वि. के अंतर्गत निर्णय दिनांक 21.09.2006 के अनुसार 10 वर्ष के कारावास से दण्डित किया है। श्री नरायन सिंह दिनांक 21.09.2006 से ही जिला कारागार, आगरा में सिद्ध दोष बन्दी के रूप में निरूद्ध है। श्री नरायन सिंह द्वारा जधन्य अपराध किया गया है। अत: श्री नरायन सिंह संग्रह अमीन (निलम्बित) को सेवा से दिनांक 21.09.2006 से ही पदच्युत (Dismiss) किया जाता है।"

8. Clearly, the order falls foul with the ratio of **Tulsiram Patel (supra)**, as applied by a coordinate bench in **Biresh Kumar (supra)**.

9. Accordingly, the present intra-Court appeal must meet the same fate as **Biresh Kumar (supra)**. Consequently, the impugned order dated 06.08.2026 and orders dated 31.03.2008, 14.09.2010 and 27.08.2020 passed by the Departmental Authorities and State Government are set aside. Matter is remitted to the Disciplinary Authority to pass a fresh order in light of the law laid down by the Supreme Court in **Tulsiram Patel (supra)** and determine whether the conduct of the petitioner-appellant was such as may warrant his dismissal or removal or reduction in rank, within the meaning of proviso (a) to Clause (2) of Article 311 of the Constitution of India. Such exercise may be completed as expeditiously as possible preferably within a period of 3 months from today. Also, to the extent, the correct legal principle has remained to be noticed by the writ Court, clearly an error on the principle has been caused in the proceedings.

10. In view of the above, the present intra-Court appeal stands **allowed**.

11. Let a copy of this order be placed on the record of the writ petition.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

November 2, 2026

Anurag/-

Digitally signed by :-
ANURAG JAISWAL
High Court of Judicature at Allahabad