2026:AHC:227007-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL DEFECTIVE No. - 775 of 2026

Nasiruddin

.....Appellant(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Nikhil Kumar Yadav, Vagish Yadav
Counsel for Respondent(s)	:	Alok Kumar Srivastava, Shashvat Gupta

Court No. - 39

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

Ref.: Civil Misc. (Delay Condonation) Application No. 01 of 2026

1. Heard Sri Vagish Yadav, learned counsel for the petitioner-appellant, Sri Arimardan Singh Rajput, learned Additional Chief Standing Counsel for the State, Sri Tarun Agarwal, learned Senior Counsel assisted by Sri Shashvat Gupta, learned counsel for respondent no. 4 and Sri Alok Kumar Srivastava, learned counsel for the Uttar Pradesh State Sugar Corporation.

2. Present appeal has been filed with a delay of 139 days.

3. Cause shown is sufficient. Delay in filing the present appeal is condoned. Delay condonation application is **allowed**.

Order on Appeal

4. The present intra-court appeal has arisen against the order dated 05.05.2026 passed by the learned single judge in **Nasiruddin Versus U.P. State Sugar Corporation and others 2026:AHC:101865.** By that order the learned single judge has dismissed the writ petition with the following observation:-

> *"8. In the aforesaid circumstances, though the Court finds that impugned order cannot survive on law, still, no relief can be granted to the petitioner. The judgment of R.S. Madireddy (Supra) applies in present case not only on facts but on law also and this writ petition is dismissed being not maintainable. However, liberty is granted to the petitioner to approach the Labour Court if so advise and in case any proceeding is initiated before Labour Court, delay if any, can be condoned since this*

> *writ petition was pending for about 25 years before this Court and Labour Court will take endeavour to decide the proceedings if initiated expeditiously, preferably within a period of one year."*

5. Undeniably, the petitioner-appellant was engaged by the Uttar Pradesh State Sugar Corporation (hereinafter referred to as the 'State Corporation') as Office Superintendent. Arising from an allegation of theft, an F.I.R. was lodged. However, the petitioner-appellant was not named in the same. Later arising from departmental enquiry instituted by the State Corporation, penalty to withhold three annual increments with cumulative effect was passed by the Disciplinary Authority on 09.06.1998. In the appeal filed there against by the petitioner-appellant, the Appellate Authority passed an order dated 17.12.1999 enhancing the penalty to dismissal.

6. The petitioner-appellant filed the writ petition there against challenging the order of the Disciplinary Authority along with the order of the Appellate Authority. The thrust of the challenge is that the Appellate Authority may not have enhanced the penalty without that power by vested in the appellate authority and in any case, it could not be done without issuing a prior notice, to that effect.

7. In support of the challenge raised, the petitioner-appellant had relied on standing orders that clearly provide that the Appellate Authority may enhance the penalty only after issuing a show cause notice. For ready reference paragraph no. 37 of **R.S. Madireddy and Another Versus Union of India and Others 2024 SCC OnLine SC 965** reads as below.

> *"37. The respondent No. 3(AIL), the erstwhile Government run airline having been taken over by the private company Talace India Pvt. Ltd., unquestionably, is not performing any public duty inasmuch as it has taken over the Government company Air India Limited for the purpose of commercial operations, plain and simple, and thus no writ petition is maintainable against respondent No. 3(AIL). The question No. 1 is decided in the above manner."*

8. Yet, on a specific query, learned Additional Chief Standing Counsel as also learned counsel for the State Corporation and Sri Tarun Agarwal, appearing for the private corporation (that has taken over the sugar unit of the State Corporation), where the petitioner-appellant was employed, could not dispute the correctness of the submission that in absence of power vested in the Appellate Authority, it may never enhance the penalty imposed by a Disciplinary Authority. Under the Standing Order, no such power has been vested. Clause O of the Standing orders covering the condition of

employment of workmen in Vacuum Pan Sugar Factories in U.P. reads as under:

> "***O. Decision of Manager to be final subject to Right of Appeal-*** *The decision of the Manager on any question arising out of in connection with or incidental to these orders, shall be final, provided that the workman aggrieved by the Manager's decision shall have the right of appeal within seven days of the Manager's decision to the Management, who shall pass orders on the appeal within twenty-one days of its being made. This does not preclude the workman from seeking redress through the machinery set up by Government for the purpose."*
>
> (emphasis supplied)

9. That position in law is absolute. In ***Makeshwar Nath Srivastava v. State of Bihar, (1971) 1 SCC 662.*** The relevant paragraph reads as below***:***

> *"14... In the absence of any other provision of law or any rule conferring on the State Government the power to pass an order of dismissal in exercise of its revisional power or power of general superintendence, the general principle must prevail, namely, that an Appellate Authority in an appeal by an aggrieved party may either dismiss his appeal or allow it either wholly or partly and uphold or set aside or modify the order challenged in such appeal. It cannot surely impose on such an appellant a higher penalty and condemn him to a position worse than the one he would be in if he had not hazarded to file an appeal..."*

10. To that extent the order passed by the Appellate Authority dated 17.12.1999 enhancing the penalty is a nullity. We declare it so. However the penalty order dated 09.06.1998 is sustained.

11. Coming to the relief that may to be granted as a consequence of the above conclusion, we accept as correct, the reasoning of the learned single judge that no writ or mandamus may be issued to a private corporation. Therefore, in these peculiar facts, though we declare that the order of the Appellate Authority of the State Corporation dated 17.12.1999 is a nullity, for the purposes of effective relief only, application under Section 6H (2) of the U.P.I.D Act, 1947 may be instituted before the Labour Court, for computation and grant of necessary monetary relief. The writ petition as instituted may not be described as not maintainable, in entirety.

12. In view of this order, no Reference is required to be made under Section 4-K of the U.P. Industrial Disputes Act, 1947. The petitioner-appellant is entitled to apply in terms of Section 6H (2) of the Act to seek consequential benefits of this order.

13. The present intra-court appeal stands **partly allowed** accordingly.

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

November 2, 2026

Suraj Srivastav

Digitally signed by :-
SURAJ SRIVASTAVA
High Court of Judicature at Allahabad