



2026:AHC-LKO:53782-DB

A.F.R.

Reserved on : 07.05.2026

Delivered on: 05.08.2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 4442 of 2026

Ex. Sub Inspector C.P. Pno-792590505 Deshraj Tyagi
.....Petitioner(s)

Versus

State of U.P. Thru. Prin. Secy. Deptt. of Home Lko. and 3
others
.....Respondent(s)

Counsel for Petitioner(s)	: Sudhir Kumar Misra, Praveen Kumar Srivastava
Counsel for Respondent(s)	: C.S.C.,

Court No. - 5

**HON'BLE ALOK MATHUR, J.
HON'BLE AMITABH KUMAR RAI, J.**

(Delivered by Hon'ble Amitabh Kumar Rai, J.)

1. Heard Shri Sudhir Kumar Misra, learned counsel for the petitioner and Shri Sanjeev Singh, learned Standing Counsel representing the State-respondent Nos.1 to 4.

- 2.** The instant writ petition has been filed challenging the judgment and order dated 23.03.2026 passed by U.P. Public Services Tribunal, Indira Bhawan, Lucknow (hereinafter referred to as "**Tribunal**") in Claim Petition No.231 of 2021 (Sub Inspector, C.P. P.N.O. 792590505, Deshraj Tyagi vs. State of U.P. and others), whereby the claim petition filed by the petitioner assailing the order of punishment of dismissal from service dated 31.07.2020 as well as challenging the appellate order dated 20.11.2020 has been dismissed by the Tribunal.
- 3.** Brief facts of the case, shorn of unnecessary details, are that the petitioner while posted as Sub Inspector in the Police Department at Kanpur City was transferred to Police Line, Fatehgarh on 28.02.2019. On 27.03.2019, he was entrusted with the duty to produce the accused, namely, Sri Badan Singh @ Baddo before the Court of Additional Chief Judicial Magistrate-II, District Ghaziabad under his supervision along with a team of five constables. The route assigned for taking the accused was Etah/Hathras/Aligarh/Bulandshahr/Gautam Buddha Nagar/Ghaziabad and by the same route the accused was to be brought back to Fatehgarh Jail. The escort team led by the petitioner took custody of the accused from Central Jail, Fatehgarh on 27.03.2019 and produced him before the Court at Ghaziabad on the next date. While returning from Ghaziabad, the escort team led by petitioner followed a different route via Shahjahanpur/Bareilly/Moradabad/Hapur other than the assigned route

and, midway, halted at a hotel by the name of "Mukut Mahal" in District Meerut, from where the accused who was a notorious criminal escaped from the custody. For the aforesaid incident of escape of the accused Badan Singh *alias* Baddo, an F.I.R. was also lodged against the petitioner at Police Station Brahmpuri District Meerut registered as Case Crime No.197 of 2019, under Sections 221, 224, 120-B of the Indian Penal Code, 1860 (hereinafter referred to as "**I.P.C.**"), in which he was arrested and sent to jail. The petitioner was also suspended vide order dated 29.03.2019 under Section 17(1)(b) of the Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991 (hereinafter referred to as "**Rules, 1991**"). Thereafter, disciplinary proceedings were initiated against the petitioner, after being released on bail on 03.06.2019 and a preliminary enquiry was conducted by Shri M.L. Gaud, Circle Officer, Fatehgarh, who submitted his preliminary enquiry report dated 14.12.2019 to the Superintendent of Police, Fatehgarh, in which he found the petitioner and the other members of the escort team guilty of negligence, indifference, indiscipline and indolent in discharge of their official duties resulting in escape of the accused from their custody.

4. Pursuant to the preliminary enquiry report dated 14.12.2019, regular disciplinary proceedings were initiated against the petitioner and a chargesheet dated 19.12.2020 was issued to him, in which it was alleged that gross negligence had been committed

by the escort team, resulting in the escape of the accused from the petitioner's custody, and as such, the petitioner was charged with negligence, indifference, indiscipline, indolent and autocratic conduct in the discharge of his official duties. Reference to the preliminary enquiry report was made in the chargesheet in support of the charges levelled against the petitioner. The evidence in support of charge-sheet was also mentioned therein, naming Shri M.L. Gaud, Circle Officer, District Fatehgarh, as one of the witnesses, along with Reserve Police Line Inspector Shri Kishavar Ali and Constable 178, Civil Police (G.D.) Office, Police Line, Fatehgarh in support of the charges. The petitioner submitted his reply to the chargesheet vide his letter dated 23.03.2020, denying the charges against him. Thereafter, the enquiry officer, after conducting detailed enquiry, submitted the enquiry report dated 15.04.2020, in which he found the petitioner guilty of the charge levelled against him and also recommended the punishment of dismissal. Subsequently, a show cause notice dated 16.07.2020 was issued to the petitioner along with enquiry report dated 15.04.2020 calling upon him to submit his reply. The petitioner subsequently submitted his reply to the show cause notice vide letter dated 30.07.2020. The disciplinary authority, after taking into consideration all the material facts as well as the petitioner's reply to the show cause notice, passed the order of punishment dated 31.07.2020, whereby the petitioner was dismissed from service.

- 5.** A bare perusal of the punishment order dated 31.07.2020 reveals that despite of repeated efforts, the show cause notice dated 16.07.2020 could not be served on the petitioner and as such, it was pasted on house of the petitioner on 21.07.2020 and thereafter a letter dated 21.07.2020 was sent by petitioner through registered post seeking further 15 days' time for filing his reply to the show cause notice and for providing photocopy of the enquiry report. Pursuant to the petitioner's letter dated 21.07.2020, a copy of the enquiry report dated 15.04.2020 was made available to him on 28.07.2020 and thereafter the petitioner submitted his reply to the show cause notice on 30.07.2020. The enquiry report dated 15.04.2020 reveals that during the course of the enquiry, the witnesses in support of charges were examined and proper opportunity of hearing was given to the petitioner during the course of the enquiry. The petitioner had appeared before the enquiry officer on 19.03.2020 and had sought 15 days' additional time for filing of reply to the charges levelled in the chargesheet. The request so made was acceded by the enquiry officer and the next date was fixed for enquiry on 24.03.2020. On the date so fixed, i.e., 24.03.2020, the petitioner appeared before the enquiry officer and submitted a written reply to the charges. After submission of the written reply by the petitioner on 24.03.2020, the next date was fixed as 31.03.2020 for producing evidence in support of the charges. On 31.03.2020, all the three witnesses mentioned in the chargesheet in support of the charges, namely,

Shri M.L. Gaud, Circle Officer, Fatehgarh, Shri Kishavar Ali, Reserve Police Line Inspector, Police Line, District Fatehgarh and Amit Kumar (P.N.O.) Constable G.D., Police Line, were examined.

- 6.** The enquiry report dated 15.04.2020 further reveals that the enquiry was conducted simultaneously against all the accused persons who were part of the escort duty along with the petitioner and who were also subjected to disciplinary proceedings. The enquiry report also indicates that the witnesses in support of the charges were also cross-examined by the petitioner as well as by the other members of the escort team. In fact, the petitioner and the other members of the escort team during course of the enquiry made allegations against each other, shifting the onus onto one another for the escape of the accused during the course of the enquiry conducted by the enquiry officer. The driver of the vehicle carrying the accused levelled allegations against the petitioner that the change of route was at the instance of the petitioner and, as such, he could not be faulted for following a different route, whereas the petitioner, during the course of enquiry, insisted that the driver did not heed his request and followed a different route. During the enquiry, it was proved that the escort team led by the petitioner did not follow the assigned route and, while returning from Ghaziabad, stopped at Hotel "Mukut Mahal" at Meerut, from where the accused, with the help of his accomplices, managed to escape. The perusal of the enquiry report indicates that extensive cross-

examination was conducted by the petitioner and the other members of the escort team of the witnesses produced by the department in support of the charges. The prosecution evidence was completed on 31.03.2020 and the petitioner and the other members of the escort team were supplied copies of the statements recorded during the examination and cross-examination of the witnesses. They were also issued notices to produce oral or written evidence in their defence within fifteen days, fixing the next date as 14.04.2020 for further enquiry. However, on the next date fixed, i.e., on 14.04.2020, neither the petitioner nor any other member of the escort team who were also subjected to disciplinary proceedings, appeared before the enquiry officer to adduce any oral or documentary evidence in support of their defence denying the charges. The enquiry officer, after examining the evidence collected during the course of the enquiry, came to the conclusion that the petitioner and the other members of the escort team were guilty of negligence, indifference and dereliction of duty and also recommended the imposition of the major penalty of dismissal against them. The disciplinary proceedings conducted against the petitioner disclose that proper opportunity of hearing was afforded to him by fixing dates and time for personal hearing and the witnesses in support of the charges were also examined and subjected to cross-examination.

- 7.** The petitioner, feeling aggrieved by the order of dismissal dated 30.07.2020, filed an appeal under Rule 20 of the Rules, 1991, which, was rejected vide order dated 20.11.2020. Feeling aggrieved, the petitioner filed Claim Petition No.231 of 2021, which was also dismissed by the learned Tribunal vide judgment and order dated 23.03.2026. The learned Tribunal, while passing the judgment and order dated 23.03.2026, held that the petitioner's claim that the driver of the vehicle carrying the accused had changed the route on his own could not be accepted, as he was the in-charge of the escort team and it was his responsibility to ensure that the assigned route was followed. The Tribunal also took into consideration the undisputed fact that the accused was taken to Hotel "Mukut Mahal" at Meerut, which was situated on a route that was not part of the assigned route, from where the accused, who was a notorious criminal, managed to escape. The learned Tribunal was of the view that such conduct on the part of the petitioner, resulting in the escape of a notorious criminal from the custody, constituted serious misconduct and, therefore, the order of punishment passed against the petitioner suffered from no infirmity or illegality.
- 8.** Learned counsel for the petitioner, while challenging the judgment and order dated 23.03.2026 passed by the Tribunal in the instant writ petition submitted that the entire disciplinary proceedings stand vitiated for the reason that, on the same allegations, a First Information Report was lodged, registered as

Case Crime No.197 of 2019, under Sections 221, 224, 120B I.P.C. at Police Station Brahmpuri, District Meerut, and as such, the disciplinary proceedings against the petitioner could not have been continued in view of the specific bar contained in Regulations 483, 486, 492 and 493 of the U.P. Police Regulations.

- 9.** It is further submitted that the chargesheet dated 19.12.2020 which formed the basis of the disciplinary proceedings against the petitioner, was neither approved by the punishing authority nor issued along with a copy of the preliminary enquiry report and hence the disciplinary proceedings against the petitioner, being illegal, cannot be sustained.
- 10.** It is also submitted that the oral statement of the petitioner was neither recorded nor considered by the enquiry officer during the course of enquiry and that the enquiry officer recommended the punishment of dismissal, which is not permissible in the law. Such recommendation by the enquiry officer proposing punishment; according to the petitioner, vitiates the disciplinary proceedings.
- 11.** The first issue raised by the learned counsel for the petitioner is with regard to the bar on disciplinary proceedings as contained in Paragraphs 483, 486, 492 and 493 of the Uttar Pradesh Police Regulations as set out in Chapter XXXII and as such, it would be appropriate to examine the provisions contained in

Chapter XXXII of the U.P. Police Regulations comprising Paragraphs 477 to 507.

- 12.** Paragraph 477 of the U.P. Police Regulations indicates that the rules contained in Chapter XXXII have been framed under Section 7 of the Police Act, 1861 (hereinafter referred to as "**the Act, 1861**") and apply only to non-gazetted officers of the police force.
- 13.** Paragraph 479 of the U.P. Police Regulations specifies the authority competent to impose punishment upon subordinate officers of the police force.
- 14.** Paragraph 483 of the U.P. Police Regulations provides that proceedings against police officers will consist of a magisterial enquiry, a police enquiry, a judicial trial or a departmental trial. Paragraph 483 is reproduced hereinbelow:

"Subject to the special provision contained in paragraph 500 and to any special orders which may be passed by the Governor in particular cases a proceeding against a police officer will consist of-

A. magisterial or police enquiry, followed, if this enquiry shows need for further action, or

B. judicial trial, or

C. departmental trial, or both, consecutively."

- 15.** Paragraph 484 of the U.P. Police Regulations entails that the nature of the enquiry in any particular case

will vary according to the nature of the offence. Paragraph 484 is reproduced herein below :

"The nature of the enquiry in any particular case will vary according to the nature of the offence. If the offence is cognizable or non-cognizable according to Schedule II of the Criminal Procedure Code and information of it is received by the District Magistrate he may in exercise of his powers under the Criminal Procedure Code either-

(1) make or order a magisterial enquiry; or

(2) order an investigation by the police.

If the information is received by a Magistrate other than a District Magistrate, and he takes cognizance of the offence, he should report the case at once to the District Magistrate who will withdraw it to his own Court under Section 528 (now Section 410/411), Criminal Procedure Code. The District Magistrate may then act as though the original complaint had been made to him.

This power extends to cases under Section 29 of the Police Act, but magisterial enquiry in cases under this section will be ordered only in very exceptional circumstances."

16. Paragraph 484 of the U.P. Police Regulations contemplate the holding of a "Magisterial enquiry" or a police investigation depending upon the nature of the offence.

17. It is noteworthy that Paragraphs 483 to 494 of the U.P. Police Regulations fall under the heading "Procedure". Paragraphs 484 to 487 falls under the heading "A-Inquiry", Paragraph 488 falls under the

heading "B-Judicial Trial" and Paragraphs 489 to 494 falls under the heading "C-Departmental Trial".

- 18.** The procedure prescribed under Chapter XXXII of the U.P. Police Regulations under the heading "Departmental Punishment and Criminal Prosecution of Police Officers" provides for three different types of enquiries, namely, magisterial or police enquiry, judicial trial and departmental trial.
- 19.** Paragraphs 484 to 487 of the U.P. Police Regulations fall under the heading "A-Inquiry" which relates to magisterial or police enquiry. Paragraph 488 falls under the heading "B-Judicial Trial" and refers to judicial trials concerning criminal charges against police officers. The procedure for disciplinary proceedings is contained under the heading "C-Departmental Trial," covering Paragraphs 489 to 494. Paragraph 489 specifically provides that a police officer may be tried departmentally under Section 7 of the Police Act irrespective of whether he has or has not been tried judicially or after a magisterial enquiry under the Code of Criminal Procedure, or after a police investigation under the Code of Criminal Procedure or after a departmental enquiry under paragraph 486(III). The Paragraph 489 of U.P. Police Regulations under the heading "C-Departmental Trial" is reproduced herein below :

"A police officer may be departmentally tried under Section 7 of the Police Act -

(1) whether he has or has not been tried judicially ;

(2) after a magisterial enquiry under the Criminal Procedure Code ;

(3) after a police investigation under the Criminal Procedure Code or a departmental enquiry under paragraph 486 (III)."

20. Paragraph 489, in clear terms, permits disciplinary proceedings against a police officer irrespective of whether he has or has not been tried judicially. This means that disciplinary proceedings against a police officer can be initiated irrespective of whether any criminal trial is pending or whether any criminal trial has already been conducted. The other aspect of paragraph 489 is that disciplinary proceedings can also be held after a magisterial enquiry under the Code of Criminal Procedure and also after a police investigation against the police officer under the Code of Criminal Procedure or after a departmental enquiry under paragraph 486(II).

21. Thus, the claim of the petitioner that there is a bar on holding disciplinary proceedings merely because an F.I.R. has been lodged in respect of the same incident is completely misconceived and contrary to the express provisions contained in Paragraph 489 of the U.P. Police Regulations.

22. The reference to Paragraphs 492 and 493 of U.P. Police Regulations is also misconceived inasmuch as paragraph 492 provides that Superintendent of Police must await the decision of the judicial appeal before deciding whether further departmental action

is necessary or not. Paragraph 493 provides that it will not be permissible for the Superintendent of Police to re-examine the truth of any facts in issue in a judicial trial against the police officer in the course of a departmental proceeding against him.

- 23.** Paragraph 492 of the U.P. Police Regulations is reproduced herein below :

"Whenever a police officer has been judicially tried, the Superintendent must await the decision of the judicial appeal, if any, before deciding whether further departmental action is necessary."

- 24.** Paragraph 493 of the U.P. Police Regulations is reproduced herein below :

" It will not be permissible for the Superintendent of Police in the course of a departmental proceeding against a Police Officer who has been tried judicially to re-examine the truth of any facts in issue at his judicial trial and the finding of the Court on these facts must be taken as final.

Thus, (a) if the accused has been convicted and sentenced to rigorous imprisonment, no departmental trial will be necessary, as the fact that he has been found deserving of rigorous imprisonment must be taken as conclusively providing his unfitness for the discharge of his duty within the meaning of Section 7 of the Police Act. In such cases the Superintendent of Police will without further proceedings ordinarily pass an order of dismissal, obtaining the formal order of the

Deputy Inspector General when necessary under paragraph 479(a). Should he wish to do otherwise he must refer the matter to the Deputy Inspector General of the range for orders.

(b) If the accused has been convicted but sentenced to a punishment less than of rigorous imprisonment a departmental trial will be necessary, if further action is thought desirable, but the question in issue at this trial will be merely (1) whether the offence of which the accused has been convicted amounts to an offence under Section 7 of the Police Act, (2) if so, what punishment should be imposed. In such cases the Superintendent of Police will (i) call upon the accused to show cause why any particular penalty should not be inflicted on him, (ii) record anything the accused officer has to urge against such penalty without allowing him to dispute the findings of the Court and (iii.) write a finding and order in the ordinary way dealing with any plea raised by the accused officer which is relevant to (1) and (2) above.

(c) If the accused has been judicially acquitted or discharged and the period for filing an appeal has elapsed and/or no appeal has been filed the Superintendent of Police must at once reinstate him if he has been suspended; but should the findings of the Court not be inconsistent with the view that the accused has been guilty of negligence in or unfitness for, the discharge of his duty within the meaning of Section 7 of the Police Act, the Superintendent of Police may refer the matter to the Deputy Inspector General and ask for permission to try the accused departmentally for such negligence or unfitness."

- 25.** Paragraph 492 provides that in a given case where a police officer has been judicially tried, the Superintendent of Police must await the decision in the judicial appeal before deciding whether any further departmental action is necessary or not.
- 26.** It reflects a scenario where no disciplinary proceedings have been initiated and the criminal trial against a police officer has concluded. In such a case, the Superintendent of Police has to await the decision in the judicial appeal before deciding whether disciplinary proceedings are to be initiated or not.
- 27.** Paragraph 493 of the U.P. Police Regulations, on the other hand, provides that the truthfulness of an issue determined during the course of a judicial trial cannot be re-examined in the course of disciplinary proceedings. This means that disciplinary proceedings in such a case is also permissible if the facts and issues involved in the disciplinary proceedings are different from those involved in the criminal trial. Sub-paragraph (c) of Paragraph 493 clarifies such a scenario.
- 28.** The claim of the petitioner that there is an absolute bar contained in Paragraphs 483, 486, 492 and 493 of the U.P. Police Regulations is thus misconceived and totally baseless.
- 29.** When we examine the facts of the present case, we find that the allegations in the charge sheet against the petitioner, which form the basis of the

disciplinary proceedings relate to gross negligence and arbitrary and autocratic conduct of the petitioner in the discharge of his official duties. Admittedly, a notorious criminal, who was in his custody, managed to escape due to the negligence & arbitrary conduct of the petitioner and the members of his escort team, who failed to follow the assigned route while escorting the accused to the Court at Ghaziabad and while returning back to Fatehgarh Jail. The guidelines regarding the escorting of prisoners from one place to another were blatantly violated, which also suggested the possibility of a conspiracy to facilitate the escape of the accused from custody which is offence under criminal law. In respect of such allegations, an F.I.R. was also lodged and the same are the subject matter of the criminal trial.

- 30.** The allegations of gross negligence, indifference, and indiscipline in the discharge of official duties, constituting misconduct, were the subject matter of the disciplinary proceedings, while with respect to criminal involvement in conspiring and aiding escape of accused from custody, if any, a separate criminal prosecution is pending. The said disciplinary proceedings were concluded against the petitioner for misconduct in the discharge of his official duties, wherein he was found guilty, resulting in the passing of the punishment order dismissing him from service and as such, the contention of the petitioner that, for the same charges for which criminal prosecution

is pending, disciplinary proceedings cannot be held is baseless and misconceived.

- 31.** The issue can be looked into from another perspective in the light of the Rules, 1991, which have been framed in exercise of the powers under sub-sections (2) and (3) of Section 46, read with Sections 2 and 7 of the Act, 1861, superseding all earlier existing rules issued on the subject matter covered under the Rules, 1991. The Division Bench of this Court in the case of ***Kedar Nath Yadav vs. State of U.P.***, reported in **2005 (23) LCD 1181** has held that the Rules, 1991 are not comprehensive enough to bring in the doctrine of total repeal by implication and has further held that the provisions not expressly covered under the Rules, 1991 remain effective. It has also held that Paragraphs 492 and 493 of the U.P. Police Regulations still hold force. We are not in variance with the said proposition of law, but at the same time are of the view that the provisions specifically covered under the Rules, 1991 cannot be negated or made ineffective on the strength of certain provisions contained in the U.P. Police Regulations.
- 32.** The Rules, 1991 have been specifically framed to cover the subject matter contained in Section 7 of the Act, 1861 and, as such, the disciplinary proceedings relating to a subordinate officer of the police force have to be conducted in accordance with the Rules, 1991 and the related provisions contained in the U.P. Police Regulations, to that extent, stand

superseded. Paragraph 492 of the U.P. Police Regulations is attracted after the conclusion of a criminal trial for conducting disciplinary proceedings in case a judicial appeal is filed, providing therein that the decision in the judicial appeal should be awaited before deciding whether further departmental action is necessary. Paragraph 493 is attracted, containing a bar on departmental proceedings against a police officer who has been tried judicially to re-examine the truth of any facts in issue at the judicial trial and is applicable only when the judicial trial is over and disciplinary proceedings are to be held thereafter. Both Paragraphs 492 and 493 are not attracted in the present case, as it is not a case where departmental proceedings have been conducted after the judicial trial had been held and concluded. The Paragraphs 492 and 493 are attracted when no disciplinary proceeding is initiated or held during the pendency of criminal trial.

- 33.** The Rules, 1991, in reference to Section 7 of the Act, 1861, are absolute and any provision contrary thereto in the U.P. Police Regulations stands superseded, i.e., to say that disciplinary proceedings against a police officer for remissness or negligence in the discharge of official duties, or for being unfit for the post, cannot be put on hold by any of the provisions of the U.P. Police Regulations. Whether such remissness or negligence forms part of a criminal conduct also has to be decided separately in criminal proceedings, but that cannot be a bar to

proceeding with the disciplinary proceedings simultaneously, which are held to ascertain whether the officer concerned is guilty of misconduct in the discharge of his official duties by being remiss and negligent.

- 34.** The scope of the disciplinary proceedings in the case of the petitioner is confined to negligence, indifference and dereliction in the discharge of official duties, resulting in the escape of the accused from police custody, as reflected in the charge-sheet dated 19.12.2020 issued to the petitioner. Thus, the argument of the learned counsel for the petitioner that the disciplinary proceedings could not have been continued in view of the provisions contained in the U.P. Police Regulations, as the criminal prosecution is still in progress, is misconceived and untenable in the eyes of law.
- 35.** The other issue raised by the learned counsel for the petitioner is with reference to the charge-sheet dated 19.12.2020, as it has been alleged that the charge-sheet was not approved by the punishing authority and, as such, the entire disciplinary proceedings stand vitiated.
- 36.** The Rules, 1991 do not provide for approval of the charge-sheet by the punishing authority and, as such, the contention of the learned counsel for the petitioner that the charge-sheet should have been approved by the punishing authority is without any

basis in the absence of any statutory provision mandating such approval.

- 37.** The allegation that the copy of the preliminary enquiry report was not appended to the charge-sheet is also not correct as from the record it is borne out that the preliminary enquiry report forms part of the charge-sheet, as it has been specifically referred to therein and therefore such allegation cannot be accepted. Moreover, during the course of the enquiry proceedings before the enquiry officer, the petitioner and the other members of the escort team, who were also subjected to the disciplinary proceedings, examined the Circle Officer, Fatehgarh, who had conducted the preliminary enquiry and thus it cannot be said that the petitioner was not supplied with the copy of the preliminary enquiry report during the course of the disciplinary proceedings.
- 38.** The allegation that the petitioner's oral statement was neither recorded nor considered is also without any basis in view of the fact that opportunity of personal hearing was given to the petitioner and to the other members of the escort team, who were also subjected to the disciplinary proceedings along with the petitioner. They were given personal hearing and they also cross-examined the witnesses who were produced by the prosecution to prove the charges against the petitioner.
- 39.** Lastly, the learned counsel for the petitioner has contended that the enquiry Officer recommended the punishment along with his enquiry report, which

is not permissible in the eyes of law, as held by the Hon'ble Supreme Court in number of cases and on that account alone the entire disciplinary proceedings against the petitioner stands vitiated. Reference has been made to the judgment of the Hon'ble Supreme Court in the case of **State of Uttar Pradesh and Others v. Saroj Kumar Sinha** reported in **(2010) 2 SCC 772**, wherein the Hon'ble Supreme Court has held that the enquiry Officer cannot act as a prosecutor as well as a Judge. In this regard, we deem it fit to first examine the relevant provisions of the Appendix I of Rules 14 (1) of Rules, 1991 which reads as under :-

"APPENDIX-I"

Procedure Relating to the Conduct of Departmental Proceedings against Police Officer [See Rule 14(1)]

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 was 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 1 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 him. 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 enquiry

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 enquiry Officer considers necessary. The charge 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 enquiry 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 finding and the ground thereof. **The enquiry Officer may also separately from these proceedings make his own recommendation regarding the punishment to be imposed on the charged Police Officer.***

(emphasis supplied)

- 40.** A bare perusal of the aforesaid Rules indicates that the Rules, 1991, applicable in the present case with regard to the disciplinary proceedings held against the petitioner, permit the enquiry Officer to make recommendations regarding the punishment to be imposed upon the charged police officer. Thus, the judgment relied upon by the petitioner in **Saroj Kumar Sinha (supra)** is not applicable to the present case inasmuch as, in **Saroj Kumar Sinha (supra)**, there was no rule corresponding to the Rules, 1991, which permitted the enquiry Officer to make recommendations regarding the punishment to be imposed upon the charged police officer.

41. Further, the Hon'ble Supreme Court, in the case of **State of U.P & Ors. v. Harendra Kumar** reported in **(2004) 13 SCC 117**, which arose out of the Rules, 1991 that are under consideration in the present case, took into consideration the enquiry report submitted by the enquiry Officer, wherein recommendation was also made by the enquiry Officer regarding dismissal from service of the delinquent employee. The Hon'ble Supreme Court held that the disciplinary authority, having agreed with the enquiry Officer, committed no illegality and relevant part thereof reads as under:-

"1. When certain misconduct came to the notice of the competent authority, a preliminary enquiry was ordered to ascertain as to whether there was any need to initiate disciplinary proceeding or not. After preliminary enquiry and in the light of the preliminary enquiry report, disciplinary proceedings were initiated against the respondent on the charge that while he was on duty he has consumed liquor and abused another constable when he was on duty. Thereafter, a regular enquiry was held and on the basis of the material placed in the enquiry, the enquiry officer having recorded a finding that the charge levelled against the respondent was proved, made the following recommendations:

"Task Force Battalion is armed with sophisticated weapons and a minor diversion or negligence can prove fatal. Therefore it is dangerous if an employee is on duty while in inebriated state.

Being in an intoxicated state while reporting on duty and showing indiscipline is not something appreciated or desired in Task Force or PAC, a disciplinary force. Therefore it is recommended that this constable Harendra Kumar 56306 may be dismissed from service under the provision of Rule 14(1) of the U.P. Police Officers of the Subordinate Services (Punishment and Appeal) Rules, 1991."

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3. The Tribunal after considering the rival contentions on their relative merits held that there was no prejudice caused to the respondent in the enquiry, the punishment imposed on the respondent was not disproportionate to the charge held proved. **However, the Tribunal found fault with the order of dismissal on the ground that the disciplinary authority did not apply its mind and merely passed the order on the basis of the recommendations made by the enquiry officer. In that view, the Tribunal felt that the order of dismissal was vitiated and accordingly allowed the application and set aside the order of dismissal, however, gave liberty to the appellants to pass fresh order of punishment in accordance with law after giving full opportunity of hearing, if so desired.** The appellants aggrieved by the order passed by the Tribunal, approached the High Court by filing a writ petition challenging its correctness and validity. The High Court unfortunately dismissed the writ petition without even broadly noticing the

contentions and/or the questions of law raised before it. The order passed by the High Court in the writ petition reads thus:

"Heard counsel for the petitioner.

Learned Standing Counsel could not assail the finding recorded by the Tribunal. The writ petition is dismissed."

Hence this appeal.

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6. We must notice that the respondent did not challenge the findings of the Tribunal, it was only the appellants who questioned the validity and correctness of the order of the Tribunal. The only contention that survives for our consideration is: whether the disciplinary authority did not apply its mind in considering the case of the respondent while passing the order of dismissal. We think it is appropriate to extract the relevant portion of the order of dismissal which reads:

"That while you were posted as constable a report was received by me about your having had consumed liquor and abused Constable Driver Omparkash Pall while you were on terrorist duty in Kasimpur Garhi PS Afzalgarh, District Bijnor and hence indiscipline. I had thereon ordered a preliminary enquiry on 15-3-1994 and the same was conducted by one Shri Girish Chandra Dhyani, Dal Nayak.

Shri Girish Chandra Dhyani had submitted a report in this context on 2-4-1994 wherein you were found guilty in the above incident and departmental

action against you was recommended under Rule 14(1) of the U.P. Police Officers of the Subordinate Services (Punishment and Appeal) Rules, 1991. As I found myself agreeing with the above report, the departmental action against you was decided to be taken by Shri Ram Bodh, Assistant Commandant on 9-5-1994.

*The departmental proceedings against you were held by Shri Ram Bodh under the provision of Rule 14(1) of the above rules while rendering you reasonable opportunity to defend yourself. **In his report submitted on 27-7-1994 he recommended your dismissal from service as the charges were fully established.***

After receiving the above conclusions I closely studied the entire case and I found myself in consent with the inference dated 27-7-1994 of Shri Ram Bodh, Assistant Commandant, 47th Battalion, PAC. I issued a show-cause notice to you on 8-8-1994 wherein it was clearly mentioned that you were required to submit your reply within 8 days of show-cause notice's receipt otherwise it shall be presumed that you have nothing to offer in defence and it was also clarified that in case your reply is received within the prescribed time then the final decision will be taken only after considering your explanation sympathetically. After you returned from leave you did not file any explanation till date. When your statement was being recorded you were specifically asked as to if you have to say anything in reply to the show-cause notice but you had refused to."

7. It is clear from the portion of the order extracted above that there has been proper application of mind by the disciplinary authority. The disciplinary authority has also stated in the order that after receiving the conclusions from the enquiry officer he closely studied the entire case and found himself in agreement with the report of the enquiry officer. It is clear from the same order that a show-cause notice was given to the respondent to make any written submission by ways of explanation.

8. Having regard to the nature of the charge i.e. that the respondent had consumed liquor on duty, that too on a duty in relation to terrorist activities and had abused another constable driver, proved by the evidence which is not challenged, we fail to understand what more consideration was required by the disciplinary authority. This apart, as we have already stated above, bare reading of the entire order of dismissal clearly shows that there has been proper application of mind. The disciplinary authority agreeing with the enquiry officer need not write a detailed judgment. In this view, the Tribunal committed a serious error in holding that there has been non-application of mind in passing the order of dismissal. The Tribunal having found that no prejudice was caused to the respondent in enquiry proceedings and punishment imposed was not disproportionate, we not at all justified in setting aside the order of dismissal. It is unfortunate that the High Court, as stated above, did not look into the matter at all in exercising the power of judicial review and had simply passed a non-speaking order.

Looking to the entire facts and circumstances, we do not find any good ground to sustain the impugned order affirming the order of the Tribunal."

(emphasis supplied)

- 42.** Though, in the judgment of **Harendra Kumar (supra)**, the issue as to whether the Enquiry Officer can recommend punishment or not was not under consideration, the Hon'ble Supreme Court held that there was no infirmity in the order passed by the Disciplinary Authority, as it had recorded its agreement with the enquiry report and while doing so, it was not required to write a detailed judgment. The Hon'ble Supreme Court held that recording of satisfaction by the Disciplinary Authority is sufficient. In the case of **Harendra Kumar (supra)**, the Hon'ble Supreme Court found no fault with the order passed by the Disciplinary Authority agreeing with the enquiry report, wherein the Enquiry Officer had recommended the imposition of the punishment of dismissal.
- 43.** The other aspect of the matter is that the Rules, 1991 itself provide that the Enquiry Officer may recommend the punishment to the disciplinary authority and such provision contained in the Rules, 1991 has not been challenged. Hence, it cannot be said that the enquiry Officer committed any illegality in recommending the punishment while submitting the enquiry report, unless it can be demonstrated that disciplinary authority did not independently applied his mind in inflicting the punishment of

dismissal which is also mandated under Rule 8(4)(a) of the Rules, 1991.

- 44.** The challenge to the disciplinary proceedings by the petitioner on the ground that the findings recorded therein are not acceptable and that the disciplinary proceedings have been held without proper opportunity being given to the petitioner to rebut the allegations is unfounded, inasmuch as the records available along with the writ petition indicate that the disciplinary proceedings were conducted in a proper manner and that the statutory provisions contained in the Rules, 1991 were strictly followed. The enquiry report reflects that the petitioner was given proper opportunity to cross-examine the witnesses produced by the prosecution in support of the charges levelled against him and adequate opportunity was also afforded to the petitioner to lead evidence in his defence.
- 45.** In fact, during the course of the enquiry as well as from the pleadings in the writ petition and before the learned Tribunal, the petitioner has failed to establish that the charges against him were unfounded. It could not be disputed by the petitioner at any stage that he was not the In-charge of the escort team which did not follow the assigned route. He also could not dispute the fact that the escort team, which was led by him, stopped at Hotel "Mukut Mahal" at Meerut, which was a sensitive place and was not on assigned route, from where a notorious criminal, who was in the custody

of the petitioner and his escort team, managed to escape with the assistance of his accomplices, who had reached the hotel pursuant to a pre-planned conspiracy. In such scenario, it cannot be ruled out that whether the petitioner or any other member of the escort team was involved in such conspiracy. However, that issue is the subject matter of the separate criminal proceedings, which are still pending. The disciplinary proceedings against the petitioner were confined only to the aspect of gross negligence committed by him and his escort team while escorting the accused to Ghaziabad in not following the assigned route and the prescribed guidelines for escorting the accused and stopping at a hotel at a place which was not permissible under the guidelines contained in the relevant Government Orders.

- 46.** The contention of the petitioner that the disciplinary proceedings ought not to have been held in view of the fact that criminal proceedings had already been initiated with respect to the escape of the accused is also misconceived, inasmuch as the object and scope of criminal proceedings and disciplinary proceedings are distinct and different. There is no legal bar to the simultaneous continuance of criminal proceedings and departmental proceedings.
- 47.** The issue as to whether disciplinary proceedings can be held at the time when the delinquent employee is facing the criminal trial, has also been considered from time to time by Hon'ble Supreme Court in

number of cases. In **State of Rajasthan Vs. B.K. Meena & Ors.** reported in **AIR 1997 SC 13**, the Hon'ble Supreme Court while dealing with the issue observed as under:-

"It would be evident from the above decisions that each of them starts with the indisputable proposition that there is no legal bar for both proceedings to go on simultaneously and then say that in certain situations, it may not be 'desirable', 'advisable' or 'appropriate' to proceed with the disciplinary enquiry when a criminal case is pending on identical charges.....The only ground suggested in the above decisions as constituting a valid ground for staying the disciplinary proceedings is that 'the defence of the employee in the criminal case may not be prejudiced'. This ground has, however, been hedged in by providing further that this may be done in cases of grave nature involving questions of fact and law. In our respectful opinion, it means that not only the charges must be grave but that the case must involve complicated questions of law and fact. Moreover, 'advisability', 'desirability' or 'propriety', as the case may be, has to be determined in each case taking into consideration all the facts and circumstances of the case.....One of the contending considerations is that the disciplinary enquiry cannot be - and should not be - delayed unduly. So far as criminal cases are concerned, it is well known that they drag on endlessly where high officials or persons holding high public offices are involved. They get bogged down on one or the other ground. They hardly ever reach a prompt conclusion.....If a criminal

case is unduly delayed that may itself be a good ground for going ahead with the disciplinary enquiry even where the disciplinary proceedings are held over at an earlier stage. The interests of administration and good government demand that these proceedings are concluded expeditiously. It must be remembered that interests of administration demand that undesirable elements are thrown out and any charge of misdemeanour is enquired into promptly. The disciplinary proceedings are meant not really to punish the guilty but to keep the administrative machinery unsullied by getting rid of bad elements. The interest of delinquent officer also lies in a prompt conclusion of the disciplinary proceedings. If he is not guilty of the charges, his honour should be vindicated at the earliest possible moment and if he is guilty, he should be dealt with promptly according to law. It is not also in the interest of administration that persons accused of serious misdemeanour should be continued in office indefinitely, i.e., for long periods awaiting the result of criminal proceedings. It is not in the interest of administration. It only serves the interest of the guilty and dishonest....."

- 48.** In another judgment of the Apex Court in the case of **Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd.** reported in **AIR 1999 SC 1416**, it has been held that there can be no bar for continuing both the proceedings simultaneously. The Court placed reliance upon large number of its earlier judgments, including **Delhi Cloth and General Mills Ltd. Vs. Kushal Bhan**, **AIR 1960 SC 806**; **Tata Oil Mills**

Co. Ltd. Vs. The Workmen, AIR 1965 SC 155; Jang Bahadur Singh Vs. Baij Nath Tiwari, AIR 1969 SC 30; Kusheshwar Dubey Vs. M/s. Bharat Coking Coal Ltd. & Ors., AIR 1988 SC 2118; Nelson Motis (Supra); and B.K. Meena (Supra) and held that proceedings in a criminal case and departmental proceedings can go on simultaneously except where both the proceedings are based on the same set of facts and the evidence in both the proceedings is common. In departmental proceedings, factors prevailing in the mind of the disciplinary authority may be many, such as enforcement of discipline or to investigate level of integrity of delinquent or other staff. The standard of proof required in those proceedings is also different from that required in a criminal case. While in departmental proceedings, the standard of proof is one of preponderance of probabilities, in a criminal case, the charge has to be proved by the prosecution beyond reasonable doubt. Where the charge against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it is desirable to stay the departmental proceedings till conclusion of the criminal case. Where the nature of charge in a criminal case is grave and wherein complicated questions of fact and law are involved, will depend upon the nature of the defence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge-sheet. In case the criminal case does not proceed

expeditiously, the departmental proceedings cannot be kept in abeyance for ever and may be resumed and proceeded with so as to conclude the same at the early date. The purpose is that if the employee is found not guilty his cause may be vindictive and in case he is found guilty, administration may get rid of him at the earliest.

- 49.** Again in the judgment of the Apex Court in the case of **State Bank of India & Ors. Vs. R.B. Sharma** reported in **AIR 2004 SC 4144**, same view has been reiterated observing that both proceedings can be held simultaneously, except where departmental proceedings in criminal case are based on same set of facts and evidence in both the proceedings is common. The Court observed as under:-

"The purpose of departmental enquiry and of prosecution are to put a distinct aspect. Criminal prosecution is launched for an offence for violation of duty. The offender owes to the society, or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of a public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service."

- 50.** In regard to the contention of the petitioner relating to the findings recorded in the disciplinary proceedings against the petitioner, we are of the view that the power of judicial review under Article 226 of the Constitution of India is not that of an

appellate authority over the decision, but is confined to examining the decision-making process, unless the finding recorded is so perverse that no reasonable person could ever have reached such a finding.

- 51.** In the judgment of Apex Court in the case of **State of Andhra Pradesh & Ors. vs. S. Sree Rama Rao** reported in **AIR 1963 SC 1723**, a three Judge Bench of this Court has held that the High Court is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf and whether the rules of natural justice are not violated. The Apex Court held as under:-

"7. ...The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to

review the evidence and to arrive at an independent finding on the evidence...."

52. In another judgment of **B.C. Chaturvedi vs. Union of India & Ors.**, reported in **(1995) 6 SCC 749** again, a three Judge Bench of this Court has held that power of judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eyes of the court. The Court/Tribunal in its power of judicial review does not act as an appellate authority to re-appreciate the evidence and to arrive at its own independent findings on the evidence. It was held as under:-

"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an enquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the enquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold enquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on

some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented. The appellate authority has co- extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary enquiry the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In Union of India vs. H.C. Goel [(1964) 4 SCR 781], this Court held at page 728 that if

the conclusion, upon consideration of the evidence, reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."

(emphasis supplied)

- 53.** Again in the judgment of the Apex Court in the case of **State of Karnataka & Anr. v. N. Gangaraj** reported in **2020 3 SCC 423**, the Apex Court has held that once the evidence has been accepted by the departmental authority, in exercise of power of judicial review, the Tribunal or the High Court could not interfere with the findings of facts recorded by re-appreciating evidence as if the Courts are the Appellate Authority.
- 54.** The proceedings of the disciplinary proceedings, as available on the records of the present writ petition, indicate that the findings recorded in the disciplinary proceedings suffer from no infirmity or any illegality. The undisputed facts emerging from the disciplinary proceedings clearly reflect the misconduct on the part of the petitioner in the discharge of his official duties, which resulted in the escape of the notorious criminal from the custody of the petitioner and his escort team, of which he was In-Charge. The Rule 8(4)(a) of the Rules, 1991 mandates the punishment of dismissal for intentionally or negligently allowing a person to escape from police custody or judicial custody, unless the punishing authority, for reasons to be recorded in writing,

awards a lesser punishment, which is the exclusive domain of the disciplinary authority. Thus, we are of the view that the disciplinary proceedings against the petitioner were held in a proper manner and suffer from no infirmity or illegality.

- 55.** In view of the aforesaid conclusions and discussion, this Court is of the view that the judgment and order dated 23.03.2026 passed by Tribunal in Claim Petition No.231 of 2021 suffer from no illegality or infirmity warranting interference by this Court in exercise of its power under Article 226 of the Constitution of India.
- 56.** Accordingly, the writ petition fails and is, hereby, **dismissed**. No order as to costs.

(Amitabh Kumar Rai, J.) (Alok Mathur, J.)

August 05, 2026

Shubhankar/Mahesh/Ashish