2026:AHC-LKO:61348

HIGH COURT OF JUDICATURE AT ALLAHABAD LUCKNOW

WRIT - A No. - 2932 of 2026

Sanjay Kumar Pathak

…..Petitioner(s)

Versus

State of U.P. Thru. Prin. Secy. State Tax Deptt. Lko. and 5 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Ramit Singh, Shambhavi Pathak
Counsel for Respondent(s)	:	C.S.C., Raj Kumar Upadhyaya (r.k.upadhyaya), S M Singh Royekwar

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Reserved on: 10.07.2026
Pronounced on: 01.09.2026

Court No. - 17

HON'BLE RAJEEV SINGH, J.

1. Heard Sri Dhruv Mathur, learned Senior Advocate assisted by Sri Ramit Singh, learned counsel for the petitioner, Sri Narendra Kumar Pandey, learned standing counsel, Sri Sumeet Tahilramani, Advocate holding brief of Sri S.M. Singh Royekwar, learned Additional Advocate General appearing for U.P. Public Service Commission.

2. This petition has been filed with the following prayer:-

"i. Issue a writ, order or direction in the nature of Certiorari quashing the punishment order dated 05.03.2026 passed by the Special Secretary, whereby the penalty of "Censure" and "withholding of one salary increment with cumulative effect" has been imposed upon the Petitioner (filed herewith as Annexure No. 1).

ii. Issue a writ, order or direction in the nature of Certiorari quashing the inquiry report dated 09.06.2025 submitted by the Inquiry Officer in the departmental proceedings initiated against the Petitioner under Rule 7 of the Uttar Pradesh Government Servant (Discipline & Appeal) Rules, 1999 (filed herewith as Annexure No. 2).

iii. Issue a writ, order or direction in the nature of Certiorari quashing the Chargesheet dated 14.11.2024 and the order dated 14.11.2024 whereby departmental proceedings were initiated against the Petitioner under Rule 7 of the Uttar Pradesh Government Servant (Discipline & Appeal) Rules, 1999 (filed herewith as Annexure No. 4 & 5).

iv. Issue a writ, order or direction in the nature of Mandamus commanding the Respondent authorities to treat the Petitioner as having an unblemished service record, by ignoring and expunging the impugned punishment from all his service records, and to restore to him all consequential benefits, including restoration of the withheld increment with all consequential monetary and pensionary benefits.

v. Issue a writ, order or direction in the nature of Mandamus commanding the Respondent authorities to consider the Petitioner for all present and future promotional and other service-related benefits as if the impugned punishment order had never been passed."

3. Learned counsel for the petitioner has submitted that the petitioner was posted as Additional Commissioner, Grade-2 (S.I.B.), State Tax, Kanpur Zone-First, Kanpur, in the month of October 2024, and he was performing his duty diligently. The charge-sheet dated 14.11.2024 was issued to the petitioner, which was served upon him on 31.12.2024, containing two charges. In charge no.1, it is alleged that the review meeting was held through video conferencing on various dates by issuing directions that 100% e-way bills of vehicles transporting pan masala from manufacturing units located in the Kanpur zone be scanned, but the petitioner failed to ensure such scanning, as a result, it is expected that efforts were not made by the petitioner to achieve the prescribed collection target, the targeted collection could not be achieved. In charge no.2, it is alleged that on the basis of charge no.1, it is evident that the petitioner clearly violated Rule 3(1) and Rule 3(2) of U.P. Government Servants Conduct Rules, 1956. Thereafter, the petitioner submitted his reply dated 22.03.2025 to the aforesaid charge-sheet stating therein that as per the circular dated 09.05.2024 issued by Commissioner, State Tax, U.P., the mobile squad units will conduct scanning of e-way bills of sensitive items as well as total items for the financial year of 2024-25. In the month of October 2024, mobile squad units conducted 474 scan of e-way bill after intercepting the vehicles, but the prescribed limit in the aforesaid circular was 245. Therefore, the mobile squad units under the control of the petitioner achieved the target 93.47% more than the prescribed limit in October, 2024. In case the charge no.1 is not made out, then the charge no.2 also goes on the ground that there is no evidence that the petitioner failed to maintain absolute integrity and devotion to duty by complying the orders of Government.

3.1. It has further been submitted that an inquiry was also conducted, and the Inquiry Officer submitted inquiry report on the basis of circular no. 1263 dated 21.11.2024 with the observation that applicant failed to discharge his duty . In between 09.05.2024 to 21.11.2024, no other circular was issued. The petitioner also relied upon the Circular dated 14.10.2024 which provides that prior to Holy festival with the guidelines that being supervisory office to scan 100% e-way bills in October, 2024, the mobile squad units will conduct search of the vehicles transporting the goods. After issuance of circular dated 21.11.2024, all seven mobile squad units were deployed pursuant to the order dated 23.11.2024 issued by the Commissioner, State Tax, for scanning of 100% e-way bills at the gates of manufacturing units dealing in pan masala and tobacco, etc., on the basis of 24-hour companies' roaster. The Inquiry Officer observed that prior to issuance of circular dated 21.11.2024 in different meetings conducted through video conferencing, instructions were issued for 100% e-way bill scanning by the mobile squad units, but it was not ensured by the petitioner from the mobile squad units. Thus, it was observed that charge no.1 is proved.

3.2. It has next been submitted that the procedure for creation of e-way bill by the businessman is an online process, and after taking out a print of the e-way bill, he also provides it to the driver of the vehicle who is carrying the goods. The mobile squad units of the G.S.T. department is under obligation to conduct random search for verifying the genuineness of the e-way bill to avoid the tax evasion. As no negligency is shown on the part of the petitioner, the charge no.1 is vague.

3.3. It has also been submitted that the Inquiry Officer submitted inquiry report, finding the petitioner guilty, with observation that the petitioner failed to ensure for scanning of 100% of e-way bill be done by the mobile squad units running under his control. Thereafter, show cause notice alongwith enquiry report was also issued to the petitioner, in response to which, the petitioner submitted detailed reply. However, without considering the reply, the impugned punishment order was passed with the observation that vide circular no. 1263 dated 21.11.2024, it is apparent that on different dates through video conferencing, instructions were given for 100% scanning of e-way bills, but the same were not ensured by the petitioner being supervisory officer.

3.4. It has lastly been submitted that prior to issuance of circular dated 21.11.2024, no direction was ever issued for scanning of 100% e-way bill. Therefore, the impugned order is liable to be set aside.

4. Learned State counsel, while opposing the prayer of the petitioner, has submitted that prior to issuance of circular dated 21.11.2024, on several occasions, oral instructions were issued to the petitioner, but he failed to comply with the same.

5. A specific question was asked from learned State counsel as to whether any oral circular could be issued by the Excise Commissioner or not. In response to the same, he was unable to give a proper reply. He was also specifically asked to indicate the dates on which oral instructions for 100% scanning of e-way bills were issued through video conferencing. He fairly conceded that the dates of the video conferencing, in which directions for 100% scanning of e-way bills were allegedly issued, are not mentioned either in inquiry report or impugned order.

6. Considering the submissions of learned counsel for parties and going through the contents of the petition as well as other relevant material, it is evident that as per the procedure, the mobile G.S.T. officer, while intercepting a vehicle transporting the goods, is duty-bound to scan/verify the e-way bills to avoid the tax evasion. In the present case, the petitioner is a supervisory officer of the mobile squad units.

6.1. It is further evident that the circular dated 09.05.2024 issued by the Commissioner, G.S.T., State of U.P., provides that 245 scanning of the e-way bill is necessary. However, in the month of October 2024, 474 e-way bills were scanned in place of 245, which is more than 93.47% of the fixed target. The charge-sheet was issued to the petitioner mentioning a charge that in the video conferencing meeting for review of the revenue collection, directions were issued for ensuring 100% scanning of e-way bills of the vehicle transporting the pan masala, but the same was not complied with. The dates and minutes of the meeting, in which oral instructions were issued for 100% scanning of e-way bills by the mobile squad units running under the control of the petitioner for the vehicle carrying the pan masala, were never provided. Even the dates are also not mentioned, in the impugned order only general allegations have been leveled.

6.2. Moreover, during the course of inquiry, the petitioner relied upon the circular dated 09.05.2024 which is the guidelines issued by the Commissioner, State Tax for the year 2024-25, in which the limits of scanning of e-way bill of pan masala is shown, as seven mobile squad units searched and scanned 474 vehicles transporting the pan masala in their area, however, the target limit was 245. The seven team under the petitioner intercepted the vehicles transporting the pan masala and examined as well as scanned the e-way bills 93.47% more than the target. The Inquiry Officer developed a case that on 21.11.2024, a circular was issued, which reveals that in earlier video conferencing meeting, directions were issued for ensuring 100% scanning of e-way bills of the vehicles transporting the pan masalas. However, no such minutes of meeting was provided to the petitioner, which shows that oral circular was issued to the petitioner.

6.3. It is observed by the Hon'ble Supreme Court in the case of ***T.S.R. Subramanian and others Vs. Union of India and others*** reported in ***(2013) 15 SCC 732***, that where an oral direction becomes unavoidable, it should be recorded and confirmed in writing at the earliest and oral order should not be issued in normal circumstance. But in case it is issued, where an oral direction becomes unavoidable, it should be recorded and confirmed in writing at the earliest.

6.4. Apparently, the petitioner submitted reply stating that after the issuance of circular dated 21.11.2024, he was ensuring by issuing necessary instructions and deployment of all seven mobile squad units at the gates of the manufacturing units of pan masala for 100% scanning of e-way bills. There is no evidence that prior to 21.11.2024, any direction was issued to the petitioner for ensuring 100% scanning of e-way bills of the vehicle transporting the pan masala, Therefore, the impugned order is based on the hypothetical charges. Accordingly, the impugned punishment order dated 05.03.2026, the impugned inquiry report dated 09.06.2025, and the charge-sheet dated 14.11.2024 are hereby ***set aside***.

7. With the above observations, the writ petition is ***allowed***.

8. Chief Secretary, Govt. of U.P., is directed to ensure that in future necessary instructions be issued in writing in place of oral instructions and in case, it is unavoidable, it should be recorded at the earliest.

9. A copy of this order be communicated forthwith to the Chief Secretary, the Additional Chief Secretary to the Hon'ble Chief Minister, and the Legal Remembrancer, Government of U.P.

10. Consequences to follow.

(Rajeev Singh,J.)

September 01, 2026
Arpan