



2026:AHC-LKO:73267

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 1959 of 2000

Virendra Kumar Srivastava

.....Petitioner(s)

Versus

District Judge Unnao

.....Respondent(s)

Counsel for Petitioner(s)	: J.n.mathur, Devendra Mohan Shukla, Dharmendra Kumar Dixit, Kamal Kumar Srivastava, Mudit Agarwal, P.r.s. Bajpai, Rupesh Kumar Kasaudhan
Counsel for Respondent(s)	: C.S.C., Gaurav Mehrotra, Shishir Jain

A.F.R.

Reserved on 22.07.2026

Delivered on 12.10.2026

Court No. - 34

HON'BLE GARIMA PRASHAD, J.

1. Heard Mr Asit Kumar Chaturvedi, learned Senior Counsel assisted by Mr. Harsh Tripathi, learned counsel for the petitioner and Mr. Shishir Jain, learned counsel for High Court and District Court.

2. The writ petition challenges the order dated 21.12.1998 removing the petitioner from service and the appellate order dated 01.12.1999 rejecting his departmental appeal. During the pendency of the petition, the petitioner died on 07.04.2006 and his legal heirs were substituted. The amended reliefs include consequential service benefits and compassionate appointment.

3. The petitioner was appointed to a Class IV post in 1977 and, after promotion, was working as Deputy Nazir in the court of Civil Judge (Junior Division), Purwa, Unnao. The disciplinary proceedings arose

from an incident stated to have occurred at about 9:00 p.m. on 23.11.1994 near the residence of the then Munsif Magistrate, Purwa.

4. A preliminary inquiry was completed on 18.02.1997. The petitioner was placed under suspension on 22.02.1997 and was served with four charges on 04.07.1997. The four articles of charge, stated in substance, were:

“Charge no. 1.—That, at about 9:00 p.m. on the night in question, when Home Guard Jagdish Narayan Yadav stopped the petitioner from knocking at the door and repeatedly ringing the bell at the residence of the Munsif Magistrate, the petitioner abused him in filthy language, snatched away his blanket and otherwise misbehaved with him.”

“Charge no. 2.—That the petitioner came to the residence of M.R. Siddiqui, the then Munsif Magistrate, in an intoxicated and half-naked condition and abused him in filthy language.”

“Charge no. 3.—That, after orderly Shiv Nath and office peon Ram Sewak had taken the petitioner from the residence of the Munsif Magistrate towards his own residence, he returned in an intoxicated condition, abused the judicial officer between the court premises and the residence, created a disturbance and spread alarm.”

“Charge no. 4.—That the petitioner was found near the residence of the Munsif Magistrate, intoxicated and hurling abuses; the patrolling police apprehended him, took him to Kotwali Purwa and had him medically examined; he was detained for the night in proceedings under Section 34 of the Police Act and released the following day on furnishing a personal bond.”

5. The petitioner denied the charges. He asserted that the proceedings were retaliatory and set up a different account of the incident. He also sought the examination of the medical officer, police personnel and defence witnesses.

6. In the departmental inquiry, M.R. Siddiqui, the complainant judicial officer, Constable Kaushal Kishore, Mangal, Uma Shanker, Satish Chandra Kanaujia and Rajendra Kumar Srivastava were examined. The petitioner was afforded the opportunity to cross-examine them. Uma Shanker was examined at the petitioner's request. Notice was issued to Shiv Nath, but he did not appear. The inquiry officer also made attempts to secure the presence of the medical officer and the police officer concerned, but they were not produced.

7. By report dated 29.10.1998, the inquiry officer held charge no. 1 not proved and charge nos. 2, 3 and 4 proved. The inquiry officer thereafter proposed removal from service. The petitioner was issued a show-cause notice on 21.11.1998, submitted his reply on 02.12.1998 and was personally heard on 21.12.1998. The District Judge accepted the findings and, by order dated 21.12.1998, imposed the punishment of removal.

8. The petitioner preferred an appeal on 11.02.1999 under Rule 7 of the Uttar Pradesh Subordinate Courts Staff (Punishment and Appeals) Rules, 1976. The Inspecting Judge rejected the appeal on 01.12.1999. The decision was communicated on 16.12.1999.

9. Learned counsel for the petitioner submits that the inquiry rests upon unproved documents. Neither the doctor who is stated to have medically examined the petitioner nor the police officer who prepared the relevant police record entered the witness box. It is urged that the material witnesses were withheld, the defence evidence was not properly secured and the finding of intoxication is therefore unsupported.

10. It is further submitted that the charges substantially overlap; once charge no. 1 failed, the remaining charges could not independently survive. The disciplinary order is assailed as non-speaking and the appellate order as contrary to Rule 7(4) of the Rules of 1976. The punishment is also said to be disproportionate. Reliance is placed on the long period of service and the subsequent death of the petitioner.

11. Learned counsel for the respondents submits that the inquiry was conducted in accordance with Rule 5 of the Rules of 1976. Several

witnesses were examined and cross-examined. The findings do not rest only on the medical report or the police papers. It is submitted that judicial review does not permit the Court to reassess the sufficiency or reliability of evidence as an appellate forum. The proved conduct, according to the respondents, is grave and the punishment calls for no interference.

12. The questions which arise for consideration are: (i) whether the inquiry and the findings on charge nos. 2, 3 and 4 suffer from a procedural or jurisdictional error; (ii) whether the disciplinary and appellate orders disclose due application of mind; and (iii) whether the punishment of removal was excessive.

13. The questions framed above must first be considered in the light of Rules 5 and 7(4) of the Rules of 1976. Rule 5 requires definite charges, an adequate opportunity of defence, a record of the evidence and findings supported by reasons. Rule 7(4) requires the appellate authority to consider whether the facts have been established, whether they afford sufficient ground for action, and whether the penalty is excessive, adequate or inadequate.

14. The scope of judicial review in disciplinary matters is settled. The Supreme Court in *State of Karnataka v. N. Gangaraj*, (2020) 3 SCC 423, and *Union of India v. P. Gunasekaran*, (2015) 2 SCC 610, reiterated that judicial review is directed to the legality of the decision-making process and does not permit the writ court to act as a second departmental appellate authority. Interference is warranted where the inquiry violates the governing rules or natural justice, the finding is based on no evidence, or the conclusion is one which no reasonable person could reach. The adequacy or comparative weight of evidence is not for the writ court to reassess.

15. In *State of Haryana v. Rattan Singh*, (1977) 2 SCC 491, the Supreme Court held that the strict rules of the Evidence Act do not govern a departmental inquiry and that material having a reasonable nexus and credibility may be considered. Such material must, however, be

evaluated fairly and the charged employee must receive an adequate opportunity to meet it. A finding cannot be sustained on mere suspicion or on documents which remain the sole, unproved basis of guilt.

16. Tested on these principles, in the present case, the prescribed procedure was followed in the departmental inquiry and the petitioner was given an opportunity to defend himself. Six witnesses were examined. The judicial officer who made the complaint stated that the petitioner was present near his residence and described the events that took place there. The other witnesses also stated what they knew about the incident. The petitioner cross-examined them and gave his explanation. The inquiry report also records that the petitioner admitted being present in the area and refers to what happened later at the police station.

17. It is not disputed that the medical officer and the police officer concerned were not examined. These were relevant witnesses, but their absence was not fatal to the inquiry. In their absence, the medical and police papers cannot be considered. However, even without those papers, the oral evidence and the petitioner's admissions remained on record. The inquiry officer had also taken steps to summon both officers. The findings on charge nos. 2, 3 and 4 were, therefore, supported by evidence on record.

18. The decisions relied upon by the petitioner in *Ministry of Finance v. S.B. Ramesh*, (1998) 3 SCC 227, *Hardwari Lal v. State of U.P.*, (1999) 8 SCC 582, *Harendra Pandey v. State of U.P. and others*, 2013 (2) UPLBEC 1704, *Roop Singh Negi v. Punjab National Bank*, (2009) 2 SCC 570, and *State of U.P. v. Saroj Kumar Sinha*, (2010) 2 SCC 772, state the requirement of proving the material on which guilt is founded and of examining material witnesses. Those principles are not in dispute. They do not govern the present facts because the findings here have independent support in oral evidence tested by cross-examination. The plea of non-supply considered in *Hardev Singh v. State of U.P. and others*, 2015 (4) UPLBEC 3416, is also not established in the present

case; the material was identified with the charge-sheet and the petitioner responded to it.

19. The contention that the failure of charge no. 1 necessarily defeats the remaining charges is also not acceptable. Though the charges arose from the same occurrence, they addressed distinct acts and consequences. The inquiry officer separated them, disbelieved the allegation concerning the Home Guard for want of supporting evidence, and gave independent reasons for accepting the remaining allegations. In fact, this shows that the inquiry officer considered each charge separately before recording the findings.

20. The prescribed procedure was duly followed. The petitioner had a full opportunity to defend himself, and the findings on charge nos. 2, 3 and 4 are supported by evidence. The first question is therefore answered against the petitioner.

21. The second question is whether the disciplinary and appellate orders disclose due application of mind. The disciplinary order considered the evidence, the inquiry findings and the petitioner's reply. It accepted the findings and gave reasons for removal. It therefore shows due application of mind.

22. The appellate order, however, merely states that the record was examined and that removal was supported by cogent reasons. It does not deal with the failure of charge no. 1 or the limited nature of the remaining charges. Nor does it consider the petitioner's length of service, the absence of an earlier adverse record or whether removal was excessive. Rule 7(4) required the appellate authority to examine the penalty independently. Its bare conclusion that the misconduct was gross did not meet that requirement. The second question is therefore answered by holding that though the disciplinary order shows due application of mind, the appellate order does not satisfy Rule 7(4).

23. The third question is whether the punishment of removal was excessive. Charge no. 1, relating to the alleged physical misconduct with the Home Guard, was not proved. The remaining charges arose from one

occurrence outside ordinary working hours. No physical injury, loss to the establishment or criminal conviction arising from the occurrence is shown. The petitioner entered service in 1977. The incident occurred in 1994 and removal followed in 1998. No earlier adverse service record has been placed before the Court.

24. Discipline and restraint are expected of every court employee, and the proved conduct deserved punishment. Removal, however, ended the petitioner's service and pensionary protection after more than two decades of service. In these facts, removal is unduly harsh and shockingly disproportionate to the misconduct proved. The Court therefore finds that the punishment of removal was excessive.

25. Ordinarily, after finding a penalty disproportionate, the Court would remit the question to the disciplinary or appellate authority. In an exceptional case, however, the Court may mould the relief to avoid prolonging the litigation as held in *B.C. Chaturvedi v. Union of India*, (1995) 6 SCC 749 and *S.R. Tewari v. Union of India*, (2013) 6 SCC 602.

26. In *Brijesh Chandra Dwivedi (Dead) through Legal Representatives v. Sanya Sahayak and others*, (2022) 4 SCC 189, despite proved misconduct involving driving a vehicle carrying P.A.C. personnel under the influence of alcohol and an earlier adverse record, the Supreme Court, having regard to the employee's long service, the limited consequence of the incident and his death during the proceedings, itself moulded the relief and protected death-cum-retirement benefits and family pension. The considerations supporting final relief are at least as compelling here.

27. More than three decades have elapsed since the occurrence. The petitioner died on 07.04.2006 and the matter is now pursued by his legal heirs. A remand would restore an appeal which the petitioner can no longer personally pursue and would prolong litigation without serving a practical purpose. This is therefore an exceptional case in which the Court should finally mould the relief.

28. In the present case, the ends of justice would be met by setting aside the penalty of removal while leaving the findings of misconduct undisturbed. Since the petitioner did not render service after 21.12.1998 and the misconduct has been sustained, full back wages would not be equitable. The denial of seventy-five per cent of the back wages provides a sufficient monetary consequence for the proved conduct.

29. The writ petition is partly allowed. The removal order dated 21.12.1998 and the appellate order dated 01.12.1999 are set aside to the extent of the penalty imposed. The petitioner shall be treated as having continued in service from 21.12.1998 until his death on 07.04.2006, solely for the purposes of continuity of service, pay fixation, terminal benefits and pension. His legal heirs shall be entitled to twenty-five per cent of the back wages for that period.

30. The petitioner's widow shall be paid family pension with effect from 07.04.2006, together with the entire admissible arrears, without reducing the pension on account of the restriction of back wages to twenty-five per cent. The respondents shall also release all other terminal and death-cum-retirement benefits admissible on the basis of notional continuity. The exercise of computation and payment shall be completed within three months from the date a certified copy of this judgment is produced before the competent authority.

31. In view of the long lapse of time, no direction for compassionate appointment is warranted. The prayer to that extent is rejected. There shall be no order as to costs.

(Garima Prashad,J.)

October 12, 2026
(Sachin Mishra)