2026:AHC-LKO:33270

AFR

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 11164 of 2021

P.N.O. No. 932739548 Balwant Chandra
.....Petitioner(s)

Versus

State Of U.P. Thru Prin.Secy. Home Deptt. Lucknow And Ors.
.....Respondent(s)

Counsel for Petitioner(s)	:	Mohd. Shujauddin Waris, Abhishek Bose, Amrendra Nath Tripathi, Arunima Singh, Indu Prakash Singh
Counsel for Respondent(s)	:	C.S.C., G.A.

Reserved on 25.03.2026
Delivered on 08.05.2026

Court No. - 18

HON'BLE KARUNESH SINGH PAWAR, J.

1. Heard Shri Amrendra Nath Tripathi, learned Senior Advocate, assisted by Ms. Arunima Singh and Shri Akash Mishra, learned counsel for the petitioner, and Shri Udai Bhan Pandey, learned Standing Counsel for the State.

Reliefs Sought

2. By means of the present petition, the petitioner seeks issuance of a writ of certiorari for quashing the impugned punishment order dated 13.02.2021 passed by respondent no. 4 (Annexure No. 13) and the appellate order dated 27.04.2021 passed by respondent no. 3 (Annexure No. 14). The petitioner has further assailed the inquiry report dated 31.10.2019 (Annexure No. 9) as well as the entire departmental proceedings conducted against him. In addition to the above, the petitioner has also prayed for issuance of a writ of mandamus commanding the respondents to permit him to continue on the post of Constable in Civil Police in District Lucknow. A consequential relief has also been sought for payment of salary and allowances of the said post regularly as and when the same fall due, along with arrears with effect from

11.04.2018.

Factual Background

3. The brief facts, as set forth in the petition, are that while the petitioner was posted as a Constable at Police Station Mohanlalganj, he came to be arrested in connection with Case Crime No. 97 of 2018, registered at Police Station Banthara, District Lucknow on 10.04.2018 under Sections 7/13(1)(d)/13(2) of the Prevention of Corruption Act, 1988, on allegations of having demanded and accepted illegal gratification from the complainant.

4. Consequent upon the aforesaid arrest and registration of the criminal case, the petitioner was placed under suspension vide order dated 11.04.2018 (Annexure No. 1). Feeling aggrieved by the said suspension order, the petitioner preferred ***Writ Petition No. 100 (S/S) of 2019, titled Balwant Chandra vs. State of U.P. and others***, inter alia on the ground that the suspension was contrary to the provisions contained in Regulations 486 and 490 of the U.P. Police Regulations, as well as the law laid down by the Hon'ble Supreme Court in State of ***U.P. Vs. Babu Ram Upadhyaya (1961) 2 SCR 679 and Kedar Nath Yadav Vs. State of U.P. (2005) 3 ESC 1955.***

5. In the said writ petition, this Court, vide order dated 04.01.2019, granted time to the learned Standing Counsel to seek instructions in the matter. Subsequently, during the pendency of the writ petition, the suspension order was revoked on 28.02.2019 rendering the challenge to the suspension largely academic. Thereafter, a short counter affidavit was filed on behalf of the State; however, since the issues raised by the petitioner were not adequately addressed therein, this Court, vide order dated 17.07.2019, granted further time to the State authorities to file a detailed counter affidavit. In compliance thereof, a paragraph-wise counter affidavit was filed and taken on record.

6. In the said counter affidavit, reliance was placed by the State upon the judgment of the Hon'ble Apex Court in ***"Capt. M Paul Antony Vs. Bharat Cold Mills, (1999) 3 SCC 679"*** as well as upon a Government Order dated 06.09.2000, to contend that there is no legal bar in proceeding with departmental proceedings simultaneously with criminal prosecution arising out of the same set of allegations. Meanwhile, during the pendency of the aforesaid writ petition, a charge sheet dated 12.03.2019, based on the

allegations forming subject matter of the aforesaid FIR No. 97 of 2018, came to be served upon the petitioner. The petitioner submitted his reply to the charge sheet on 30.03.2019, denying the allegations levelled against him.

7. Upon conclusion of the departmental inquiry, the Inquiry Officer submitted his report dated 31.10.2019 (Annexure No. 9), holding the petitioner guilty of the charges levelled against him. The said inquiry report was thereafter furnished to the petitioner along with a show cause notice, calling upon him to submit his explanation, which has been brought on record as Annexure No. 10.

8. The petitioner, being aggrieved by the issuance of the show cause notice dated 12.11.2019 by the Senior Superintendent of Police, Lucknow, challenged the same by filing ***writ petition No. 34508 (S/S) of 2019 "Balwant Chandra Vs. State of U.P. and others"***. The said writ petition came to be disposed of by this Court vide judgment and order dated 13.12.2019. The relevant extract of the said order is reproduced hereinbelow:—

"Though I am not interfering with the show cause notice but the relevant material available on record reveals that the respondent-State has not replied the specific contention of the learned counsel for the petitioner in Service Single No.100 of 2019 to the effect that in view of the Constitution Bench Judgement of the Hon'ble Apex Court in re; Babu Ram Upadhya (supra), Kedar Nath Yadav (supra) and Sanjay Rai (supra), the departmental enquiry and criminal proceedings on the similar set of facts and evidences may not go hand in hand. Besides the defence reply submitted by the petitioner to the charge sheet raising aforesaid grounds has not been considered by the enquiry officer, therefore, if submissions and grounds so raised by the petitioner before the enquiry officer have not been considered properly and instead of the specific legal ground raised on the basis of aforesaid judgments, holding the petitioner guilty does not, prima facie, appear to be appropriate. If the Division Bench of this Court in re; Kedar Nath Yadav (supra) and Single Judge in re; Sanjay Rai (supra) have held that both criminal proceedings and departmental proceedings may not go hand in hand and the judgments in re; Kedar Nath Yadav (supra) has not been assailed till date and is a good law by now, then as to how the petitioner may be punished departmentally when admittedly criminal proceedings are pending. Besides, the writ petition of the petitioner is pending wherein it has been assailed that the

departmental enquiry against the petitioner may not be conducted being violative of various provisions of Police Regulations and dictums of the Hon'ble Supreme Court, then why this much haste is being shown by the disciplinary authority even those legal grounds have not been replied by now.

These all aforesaid legal submissions of learned counsel for the petitioner need careful consideration by the disciplinary authority. Since the show cause notice has been assailed by the petitioner, therefore, this Court restrains itself in making any observation which affects the decision of the disciplinary authority but at the same time this much may be expected that no order is passed by the disciplinary authority which is illegal on the face of it in any manner whatsoever.

Therefore, without interfering the show cause notice, liberty is given to the petitioner to submit the explanation to the show cause notice within a period of fifteen days from today taking all pleas and legal grounds challenging the findings of the enquiry officer enclosing therewith decisions of the Hon'ble Courts and if the petitioner submits his explanation within the aforesaid stipulated time, the disciplinary authority shall first consider as to whether the enquiry against the petitioner has been conducted and concluded considering his all submissions so raised in his defence reply and shall also deal the other legal submissions based on the judgment of the Hon'ble Apex Court in re; Babu Ram Upadhya (supra), the judgment of Division Bench in re; Kedar Nath Yadav (supra) and the judgment of Single Judge in re; Sanjay Rai (supra) and shall give his specific finding as to whether criminal proceedings and departmental proceedings may go hand in hand. The petitioner may be provided an opportunity of personal hearing also. The final order shall be passed strictly in accordance with law, in a manner directed above, with expedition, preferably within a period of two months.

The writ petition is accordingly disposed of."

9. While disposing of the aforesaid writ petition, this Court observed that, in view of the law laid down in ***State of U.P. vs. Babu Ram Upadhyaya (supra), Kedar Nath Yadav vs. State of U.P. (supra),*** as well as the judgment rendered in ***Sanjay Rai vs. State of U.P. and others (Service Single No. 936 of 2015),*** departmental proceedings and criminal prosecution based on the same set of facts and evidence may not ordinarily proceed simultaneously in the case of the petitioner. The Court further noted that the defence reply submitted by the petitioner to the charge sheet, specifically

raising the aforesaid contention, had not been duly considered by the Inquiry Officer. It was also observed that the judgment in ***Kedar Nath Yadav vs. State of U.P. (supra)*** continues to hold the field, having not been set aside till date, and therefore, a question arises as to how the petitioner could be subjected to departmental punishment when the criminal proceedings on identical charges were admittedly pending.

10. In the aforesaid backdrop, this Court, vide order dated 13.12.2019, granted liberty to the petitioner to submit a detailed reply to the show cause notice within a period of 15 days from the date of the judgment, raising all factual and legal pleas, including those based on the aforesaid judicial pronouncements. It was further directed that, upon submission of such reply, the disciplinary authority shall first consider whether the departmental inquiry had been conducted and concluded after taking into account the defence of the petitioner. The disciplinary authority was also directed to specifically deal with the legal submissions advanced by the petitioner, particularly those based upon the judgments of the Hon'ble Supreme Court in ***State of U.P. vs. Babu Ram Upadhyaya (supra)***, the Division Bench judgment in ***Kedar Nath Yadav vs. State of U.P. (supra)***, and the decision in ***Sanjay Rai vs. State of U.P. (supra)***, and to record a clear finding as to whether, in the facts of the case, departmental proceedings and criminal prosecution could proceed simultaneously.

11. The Court further directed that the petitioner be afforded an opportunity of personal hearing and a reasoned and speaking order be passed strictly in accordance with law and in the light of the directions contained in the judgment dated 13.12.2019. It was also observed that such exercise be completed expeditiously, preferably within a period of two months.

12. In compliance of the aforesaid directions, the petitioner submitted his reply to the show cause notice, which has been brought on record as Annexure No. 12 to the writ petition, raising all the pleas available to him. The said reply dated 27.12.2019 was submitted well within the time granted by this Court. However, after considering the said reply, the disciplinary authority proceeded to pass the punishment order dated 13.12.2021. Aggrieved thereby, the petitioner preferred a departmental appeal before the Appellate Authority, which too came to be dismissed vide order dated

27.04.2021 (Annexure No. 14 to the writ petition).

13. It is further stated that, during the pendency of the present writ petition, the criminal trial arising out of FIR No. 97 of 2018 concluded before the Court of Special Judge, P.C. Act-VI, Lucknow. The said court, vide judgment and order dated 30.10.2025 passed in *Criminal Case No. 996 of 2018, titled State of U.P. vs. Balwant Chandra*, acquitted the petitioner of all charges.

14. A perusal of the said judgment shows that the trial court has recorded a categorical finding that the prosecution failed to establish the demand of illegal gratification by the petitioner beyond reasonable doubt. It has also been specifically held that there is no credible evidence on record to prove that the petitioner had accepted any bribe which resulting in his acquittal.

Submissions of the Petitioner

15. Learned counsel for the petitioner has submitted that the provisions contained in Regulation 486(1) of the Uttar Pradesh Police Regulations (hereinafter referred to as the "Police Regulations") have been authoritatively held to be mandatory in nature by the Hon'ble Supreme Court in ***State of U.P. vs. Babu Ram Upadhyaya (supra)***. It is contended that any departmental proceedings conducted in violation of the procedure prescribed under the aforesaid provision are vitiated in law and are liable to be declared illegal.

16. It is further argued that in ***Kedar Nath Yadav vs. State of U.P. (supra),*** it has been clearly laid down that once a police officer has been acquitted by a competent criminal court, the findings recorded therein attain finality and are to be treated as binding. Consequently, no departmental proceedings can be sustained on the same set of allegations, as the findings of the criminal court must be accepted as correct. On this premise, it is submitted that the entire impugned action, including the departmental proceedings, inquiry report, show cause notice, punishment order, and the appellate order, stands vitiated, having been undertaken in clear contravention of the law laid down by the Hon'ble Supreme Court as well as by the Division Bench of this Court.

17. Learned counsel further submits that during the pendency of the criminal trial, no departmental inquiry could have been legally continued against the petitioner on identical facts and evidence. It is urged that the judgment in ***Capt. M. Paul Antony vs. Bharat Gold Mines Ltd. (supra),*** which permits simultaneous proceedings in certain circumstances, is not applicable to members of the police force in the State of Uttar Pradesh.

18. It is also contended that the directions issued by this Court in its earlier judgment dated 13.12.2019 have been flagrantly violated. The Court had categorically directed that a final order be passed within a period of two months; however, the said period expired on 13.02.2020, whereas the impugned punishment order came to be passed much later on 13.02.2021, i.e., after a substantial and unexplained delay. It is submitted that once a time frame is fixed by a Court, the authority concerned is bound to adhere to the same, and in case of any difficulty, it ought to seek extension of time from the Court by disclosing valid and satisfactory reasons. In support of this submission, reliance has been placed upon the Full Bench judgment of this Court in ***Abhishek Prabhakar Awasthi vs. New India Assurance Company Limited and others, 2013 SCC OnLine All 14267.***

19. Learned counsel for the petitioner submits that during the pendency of the writ petition, the petitioner has been acquitted in the criminal trial vide judgment dated 30.10.2025 passed by the Special Judge, P.C. Act-VI, Lucknow in Criminal Case No. 996 of 2018, State of U.P. vs. Balwant Chandra, on the ground that the prosecution failed to prove demand and acceptance of illegal gratification beyond reasonable doubt.

Submissions of the State

20. Per contra, learned Standing Counsel has opposed the writ petition and submitted that the Uttar Pradesh Police Officers and Subordinate Ranks (Punishment and Appeal) Rules, 1991 (hereinafter referred to as the "Rules, 1991") have been framed in exercise of powers conferred under sub-section (2) of Section 46 read with Sections 2 and 7 of the Police Act, 1861. It is contended that the said Rules, 1991, which were duly notified on 21.03.1991, have an overriding effect and have superseded all prior rules, regulations, and executive instructions on the subject.

21. It is thus submitted that the Rules, 1991 exclusively govern the field relating to departmental proceedings, imposition of punishment, and appellate remedies in respect of police personnel of subordinate ranks in the State of Uttar Pradesh. Consequently, reliance placed by the petitioner upon Paragraphs 486 (i), 492, and 493 of the Police Regulations, as well as the judgments in ***Babu Ram Upadhyaya (supra), Kedar Nath Yadav (supra), and Sanjay Rai (supra)***, is misconceived and not applicable in the present case.

22. It has been further contended by the learned Standing Counsel that, in view of the statutory framework under the Rules, 1991 and the law laid down in Capt. M. Paul Antony vs. Bharat Gold Mines Ltd. (supra), there exists no absolute legal bar on conducting departmental proceedings during the pendency of a criminal trial, even if both arise out of the same set of facts. Accordingly, it is submitted that the impugned proceedings have been conducted in accordance with law and do not warrant interference by this Court.

Consideration by the Court

23. Perused the record.

24. A Coordinate Bench of this Court, vide judgment and order dated 13.12.2019, disposed of the earlier writ petition with specific directions to the disciplinary authority. It was, inter alia, directed that the disciplinary authority shall first examine whether the inquiry against the petitioner had been conducted and concluded after duly considering the submissions raised by him in his defence reply. The authority was further obligated to deal with the legal submissions advanced by the petitioner, particularly those founded upon the judgments of the Hon'ble Supreme Court in ***State of U.P. vs. Babu Ram Upadhyaya (supra)***, the Division Bench judgment of this Court in ***Kedar Nath Yadav vs. State of U.P. (supra)***, and the decision of the learned Single Judge in ***Sanjay Rai vs. State of U.P. (supra).*** Additionally, a clear and reasoned finding was required to be recorded as to whether, in the facts of the case, the criminal proceedings and departmental proceedings could proceed simultaneously.

25. In purported compliance of the aforesaid judgment dated 13.12.2019, the

petitioner submitted a detailed reply to the show cause notice, which has been brought on record as Annexure No. 12. In the said reply, the petitioner specifically relied upon and referred to the aforesaid judgments, raising categorical legal pleas regarding the impermissibility of continuing departmental proceedings during the pendency of the criminal trial on identical facts.

26. However, a perusal of the punishment order shows that the specific plea taken by the petitioner, particularly in paragraph 19 of his reply (Annexure No. 12), wherein reliance was placed upon the aforementioned judicial pronouncements, has not been dealt with in the manner directed by this Court. The disciplinary authority has cursorily observed that the said judgments are not applicable to the case of the petitioner and, therefore, require no further consideration. Such a mechanical and non-speaking approach clearly indicates non-application of mind and failure to comply with the directions issued by this Court.

27. Thus, it is evident that while passing the impugned punishment order, the disciplinary authority has completely disregarded the mandate of the judgment dated 13.12.2019. Despite a specific direction of this Court to pass the final order preferably within a period of two months, the punishment order has been passed only on 13.02.2021, i.e., after an inordinate delay of approximately fourteen months, without any explanation or permission sought from the Court for extension of time. In this context, the Full Bench judgment of this Court in ***Abhishek Prabhakar Awasthi vs. New India Assurance Company Limited and others (supra)***, has held as under:—

"18. These judgments of the Supreme Court consequently recognize that the delay in concluding a departmental enquiry would not ipso facto vitiate the proceedings or render it invalid or non est. The Court has to take into consideration and balance all the relevant factors. The Court must consider in that balance the need for preserving the sanctity of the administration. On the other hand, fairness towards the delinquent employee requires that disciplinary proceedings should be concluded expeditiously. Hence, the nature of the charge, its complexity and the reasons for that delay are all relevant considerations which have to be borne in mind. Where the court has stipulated a period of time within which an enquiry has to be concluded, the direction of the Court, particularly in the form of a mandamus, has to be duly observed. It

would not be open to the employer to willfully disregard the fixation of a time limit as a matter of no consequence. However, the fixation of a period within which a disciplinary enquiry has to be concluded, in an order of the Court, does not deprive the court of its jurisdiction to extend time in an appropriate case having due regard to all the facts and circumstances which have been noted above. Whether the time should be extended on a consideration of the relevant circumstances is for the court to determine.

19. In view of the above discussion, we now proceed to answer the questions which have been referred to the Full Bench.

(A) Question No. (a): We hold that if an enquiry is not concluded within the time which has been fixed by the Court, it is open to the employer to seek an extension of time by making an appropriate application to the court setting out the reasons for the delay in the conclusion of the enquiry. In such an event, it is for the court to consider whether time should be extended, based on the facts and circumstances of the case. However, where there is a stipulation of time by the Court, it will not be open to the employer to disregard that stipulation and an extension of time must be sought;

(B) Question No. (b): The judgment of the Supreme Court in the case of Suresh Chandra (supra) as well as the judgment of the Division Bench of this Court in the case of Satyendra Kumar Sahai (supra) clearly indicate that a mere delay on the part of the employer in concluding a disciplinary enquiry will not ipso facto nullify the entire proceedings in every case. The court which has fixed a stipulation of time has jurisdiction to extend the time and it is open to the court, while exercising that jurisdiction, to consider whether the delay has been satisfactorily explained. The court can suitably extend time for conclusion of the enquiry either in a proceeding instituted by the employee challenging the enquiry on the ground that it was not completed within the stipulated period or even upon an independent application moved by the employer. The court has the inherent jurisdiction to grant an extension of time, the original stipulation of time having been fixed by the court itself. Such an extension of time has to be considered in the interests of justice balancing both the need for expeditious conclusion of the enquiry in the interests of fairness and an honest administration. In an appropriate case, it would be open to the Court to extend time suo motu in order to ensure that a serious charge of misconduct does not go unpunished leading to a serious detriment to the public interest. The court has sufficient powers to grant an extension of time both before and after the period

stipulated by the court has come to an end."

28. While answering Question No. A, the Full Bench of this Court in ***Abhishek Prabhakar Awasthi vs. New India Assurance Company Limited and others (supra)*** has categorically held that where a Court prescribes a time limit for conclusion of an inquiry, it is incumbent upon the employer to adhere to the same. In the event the inquiry cannot be concluded within the stipulated period, it is open to the employer to seek extension of time by moving an appropriate application before the Court, assigning cogent reasons for such delay. It is thereafter for the Court to consider, in the facts and circumstances of the case, whether such extension ought to be granted. However, it is not open to the employer to disregard the time limit so fixed, and compliance with the said stipulation is mandatory unless duly extended by the Court.

29. In the present case, although a period of two months was granted by the Coordinate Bench vide judgment and order dated 13.12.2019 for passing the final order, the disciplinary authority proceeded to pass the punishment order only on 13.02.2021, i.e., after an inordinate delay of about fourteen months. Admittedly, no application seeking extension of time was moved before this Court, nor was any permission obtained for such delay. In view of the law laid down by the Full Bench in ***Abhishek Prabhakar Awasthi vs. New India Assurance Company Limited and others (supra),*** such action on the part of the disciplinary authority is clearly impermissible and renders the impugned punishment order unsustainable on this ground alone.

30. It is further evident that although the disciplinary authority has made a reference to the contentions raised by the petitioner, particularly those contained in paragraph 19 of his reply to the show cause notice, wherein reliance was placed upon the judgments in ***State of U.P. vs. Babu Ram Upadhyaya (supra), Kedar Nath Yadav vs. State of U.P. (supra), and Sanjay Rai vs. State of U.P. (supra)***, no reasoned finding has been recorded with respect to the applicability or otherwise of the said judgments. This is in the teeth of the specific direction issued by this Court in its order dated 13.12.2019, requiring the disciplinary authority to return a clear and categorical finding as to whether, in the facts of the case, the criminal proceedings and departmental proceedings could proceed simultaneously.

The omission to record such a finding, coupled with a mere cursory observation that the said judgments are not applicable, reflects non-compliance of the directions issued by this Court and lack of proper application of mind which vitiates the impugned order.

31. The provisions contained in Regulations 486(1), 492 and 493 of the U.P. Police Regulations are essential for the proper adjudication of the present matter, having a direct and significant bearing on the issues involved. Accordingly, the said provisions are reproduced hereunder for ready reference:-

*"**486.** When the offence alleged against a police officer amounts to an offence only under Section 7 of the Police Act, there can be no magisterial inquiry under the Criminal Procedure Code. In such cases and in other cases until and unless a magisterial inquiry is ordered, inquiry will be made under the direction of this Superintendent of Police in accordance with the following rules:*

I Every information received by the police relating the com mission of a cognizable offence by a police officer shall be dealt with in the first place under Chapter XIV (now Chapter XII), Criminal Procedure Code, according to law a case under the appropriate section being registered in the police station concerned provided that-(1) if the information is received, in the first instance, by a Magistrate and forwarded by the District Magistrate to the police, no case will be registered by the police,

(2) if the information is received, in the first instance by the police, the report required by Section 157, Criminal Procedure Code, shall be forwarded to the District Magistrate, and when forwarding it the Superintendent of Police shall note on it with his own hand what steps are being taken as regards investiga-tion or the reasons for refraining from investigation:

(3) unless investigation is refused by the Superintendent of Police under Section 157(1)(b), Criminal Procedure Code and not ordered by the District Magistrate under Section 159, or unless the District Magistrate orders a magisterial inquiry under Section 159, investigation under Section 159, Criminal Procedure Code, shall be made by a police officer selected by the Superintendent of Police and higher in rank than the officer charged;

(4) on the conclusion of the investigation and before the report required by Section

173, Criminal Procedure Code, is prepared, the question whether the officer charged should or should not be sent for trial shall be decided by the Superintendent of Police. Provided that before an officer whose dismissal would require the concurrence of the Deputy Inspector General under paragraph 479 is sent for trial by the Superintendent of Police, the concurrence of the Deputy Inspector General must be obtained;

(5) the charge-sheet or final report under Section 173, or Section 169, Criminal Procedure Code, as the case may be, shall be
sent to the District Magistrate; if the Superintendent of Police or the Deputy Inspector General had decided against a prosecution, a note by the Superintendent of Police giving the reasons for this decision shall be endorsed on, or attached to the final report;

(6) when the reason for not instituting a prosecution is that the charge is believed to be baseless, no further action will be necessary; if the charge is believed to be true and a prosecution is not undertaken owing to the evidence being considered insufficient or for any other reasons the Superintendent may, when the final report under Section 173, Criminal Procedure Code, has been accepted by the District Magistrate; take departmental action as laid down in paragraph 490.

***492.** 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.*

***493.** 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.

32. In ***State of U.P. vs. Babu Ram Upadhyaya (supra),*** the Hon'ble Supreme Court, while interpreting the scope and import of Regulations 486(1), 492 and 493 of the Police Regulations, has elucidated the legal position in paragraphs 7 and 30 of the judgment, which read as under:-

"7. The second objection of learned counsel for the appellants is that sub-para (3) of para 486 of the Police Regulations enables the appropriate police authority to initiate the departmental proceeding without complying with the provisions of sub-para (1) of para 486. The relevant portion of para 486 of the Police Regulations reads:

"When the offence against a police officer amounts to an offence only under Section 7 of the Police Act, there can be no magisterial inquiry under the Criminal Procedure Code. In such cases, and in other cases until and unless a magisterial inquiry is ordered, inquiry will be made under the direction of the Superintendent of Police in accordance with the following rules:…."

Rule I relates to a cognizable offence, Rule II to a non-cognizable offence, including an offence under Section 29 of the Police Act, and Rule III to an offence under Section 7 of the Police Act or a non-cognizable offence, including an offence under Section 29

of the Police Act. Rule III says:

"When a Superintendent of Police sees reason to take action on information given to him, or on his own knowledge or suspicion, that a police officer subordinate to him has committed an offence under Section 7 of the Police Act or a non-cognizable offence (including an offence under Section 29 of the Police Act) of which he considers it unnecessary at that stage to forward a report in writing to the District Magistrate under Rule II above, he will make or cause to be made by an officer senior in rank to the officer charged, a departmental inquiry sufficient to test the truth of the charge. On the conclusion of this inquiry he will decide whether further action is necessary, and if so, whether the officer charged should be departmentally tried, or whether the District Magistrate should be moved to take cognizance of the case under the Criminal Procedure Code…."

The argument is that the words "an offence under Section 7 of the Police Act" take in a cognizable offence and that, therefore, this rule provides for a procedure alternative to that prescribed under Rule I. We do not think that this contention is sound. Section 7 of the Police Act empowers certain officers to dismiss, suspend or reduce any police officer of the subordinate rank whom they shall think remiss or negligent in the discharge of his duty, or unfit for the same. The grounds for punishment are comprehensive : they may take in offences under the Indian Penal Code or other penal statutes. The commission of such offences may also be a ground to hold that an officer is unfit to hold his office. Action under this section can, therefore, be taken in respect of, (i) offences only under Section 7 of the Police Act without involving any cognizable or noncognizable offences, that is, simple remissness or negligence in the discharge of duty, (ii) cognizable offences, and (iii) non-cognizable offences. Para 486 of the Police Regulations makes this clear. It says that when the offence alleged against a police officer amounts to an offence only under Section 7 of the Police Act, there can be no magisterial inquiry under the Criminal Procedure Code. This part of the rule applies to an offence only under Section 7 of the Police Act i.e. the first category mentioned above. Rule I refers to a cognizable offence i.e. the second category, Rule II to a non-cognizable offence i.e., the third category, and Rule III applies to an offence under Section 7 of the Police Act and to a noncognizable offence. Though the word "only" is not mentioned in Rule III, the offence under Section 7 of the Police Act can, in the context, mean an offence only under Section 7 of the said Act i.e., an offence falling under the first category. So understood, the three rules can be reconciled. We, therefore, hold that, as the offence complained of in the present case is a cognizable offence, it falls under Rule I and not under Rule III. We, therefore,

reject this contention."

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30. Now what is the object of Rule I of para 486 of the Police Regulations? In our opinion, it is conceived not only to enable the Superintendent of Police to gather information but also to protect the interests of subordinate officers against whom departmental trial is sought to be held. After making the necessary investigation under Chapter XIV of the Criminal Procedure Code, the Superintendent of Police may as well come to the conclusion that the officer concerned is innocent, and on that basis drop the entire proceedings. He may also hold that it is a fit case for criminal prosecution, which, under certain circumstances, an honest officer against whom false charges are framed may prefer to face than to submit himself to a departmental trial. Therefore, the rules are conceived in the interest of the department as well as the officer. From the stand point of the department as well as the officer against whom departmental inquiry is sought to be initiated, the preliminary inquiry is very important and it serves a real purpose. Here the setting aside of the order of dismissal will not affect the public in general and the only consequence will be that the officer will have to be proceeded against in the manner prescribed by the rules. What is more, para 487 and para 489 make it abundantly clear that the police investigation under the Criminal Procedure Code is a condition precedent for the departmental trial. Para 477 emphasizes that no officer appointed under Section 2 of the Police Act shall be punished by executive order otherwise than in the manner provided under Chapter XXXII of the Police Regulations. This is an imperative injunction prohibiting inquiry in non-compliance with the rules. Para 489 only empowers the holding of a departmental trial in regard to a police officer only after a police investigation under the Criminal Procedure Code. When a rule says that a departmental trial can be held only after a police investigation, it is not permissible to hold that it can be held without such investigation. For all the foregoing reasons, we hold that para 486 is mandatory and that, as the investigation has not been held under Chapter XIV of the Criminal Procedure Code, the subsequent inquiry and the order of dismissal are illegal.

33. While interpreting the object and scope of Regulation 486(1) of the Police Regulations, the Hon'ble Supreme Court in ***State of U.P. vs. Babu Ram Upadhyaya (supra)*** observed that the provision has been enacted with the purpose of safeguarding subordinate police officers against arbitrary or

premature departmental proceedings. It was held that the Regulation enables the Superintendent of Police to ensure that the interest of such officers is protected in cases where a departmental trial is sought to be initiated.

34. The Hon'ble Supreme Court further clarified in ***State of U.P. vs. Babu Ram Upadhyaya (supra)*** that a police investigation in accordance with the provisions of the Code of Criminal Procedure is a condition precedent for initiating a departmental trial. It was categorically held that Regulation 486(1) is mandatory in nature, and any departmental inquiry conducted in violation thereof would stand vitiated. The Court emphasized that departmental proceedings can ordinarily be undertaken only after the conclusion of the police investigation or criminal trial. On these principles, the order of dismissal impugned therein was set aside, having been passed in contravention of the mandatory provisions of Regulation 486(1).

35. In ***Kedar Nath Yadav vs. State of U.P. (supra),*** the Division Bench of this Court considered the interplay between the Uttar Pradesh Police Officers and Subordinate Ranks (Punishment and Appeal) Rules, 1991 and the Police Regulations. The Court held that the Rules, 1991 do not abrogate or repeal the Police Regulations in their entirety. It was further held that the law laid down by the Hon'ble Supreme Court in ***State of U.P. vs. Babu Ram Upadhyaya (supra)*** continues to hold the field and remains binding. The Division Bench held that the authorities are still bound to comply with Regulations 492 and 493 of the Police Regulations notwithstanding the enforcement of the Rules, 1991. It was further held that once a delinquent employee is acquitted in a criminal trial on merits, it is not open to the departmental authorities to go behind such acquittal. Rather, the findings recorded by the criminal court must be accepted in their true import. On this reasoning, the Division Bench allowed the appeal as well as the writ petition and quashed both the punishment order and the appellate order. Emphasis on paragraphs 26, 28, 38, 39, 40, 41, and 43 of the judgment.

36. Similarly, in ***Sanjay Rai vs. State of U.P. (supra)***, a learned Single Judge of this Court reiterated that the judgment in ***State of U.P. vs. Babu Ram Upadhyaya (supra)*** continues to be good law and retains its binding force. The Court also placed reliance upon the decision in ***Kedar Nath Yadav vs. State of U.P. (supra),*** and affirmed that the principles laid down therein are

applicable and enforceable. Emphasis is on paragraphs 5, 6, 14, 15, 16, 17, 19, 24, 26, 27, and 28 of the said judgment.

37. In the present case, it is not in dispute that the petitioner has been acquitted in the criminal trial vide judgment and order dated 30.10.2025 passed by the Court of Special Judge, P.C. Act-VI, Lucknow in Criminal Case No. 996 of 2018, titled State of U.P. vs. Balwant Chandra. It is also an admitted position that no appeal has been preferred against the said judgment of acquittal, and thus, the same has attained finality.

38. In view of the law laid down by the Division Bench of this Court in ***Kedar Nath Yadav vs. State of U.P. (supra)***, read with Regulation 493 of the Police Regulations, the acquittal recorded by the competent criminal court has a binding effect on the departmental proceedings. It is not permissible for the disciplinary authority to go behind or disregard the findings returned by the criminal court. The judicial determination rendered in the criminal trial must be treated as conclusive on the issues involved, particularly when the acquittal is on merits.

Conclusion and Directions

39. Accordingly, once the petitioner stands acquitted of the charges in the criminal proceedings, the only course open to the disciplinary authority is to accept the said acquittal and give due effect to it. The findings recorded by the criminal court, having attained finality, are binding in terms of Regulation 493 of the Police Regulations as well as the law declared in ***Kedar Nath Yadav vs. State of U.P. (supra)***.

40. In light of the discussions made hereinabove, this Court is of the considered opinion that the impugned punishment order, as contained in Annexure No. 13, cannot be sustained in the eyes of law and is liable to be set aside. Accordingly, the same is hereby set aside. Consequently, the appellate order contained in Annexure No. 14, which is founded upon and reiterates the same reasoning as contained in the punishment order, also cannot survive and is, therefore, set aside.

41. As a consequence, the petitioner shall be reinstated in service to the post of Constable in the Civil Police in District Lucknow and he shall be entitled to payment of arrears of salary, allowances and other consequential service

benefits w.e.f. 11.04.2018.

(Karunesh Singh Pawar,J.)

May 8, 2026
R.C.