



2025:AHC:203871

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 16890 of 2025

Vipin Chandra Verma

.....Petitioner(s)

Versus

State of U.P. and 5 others

.....Respondent(s)

Counsel for Petitioner(s) : Lavkush Singh, Prabhakar Awasthi
Counsel for Respondent(s) : C.S.C.

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. The present writ petition has been filed by the petitioner challenging a notice dated 19.09.2025 issued by respondent no. 3¹ and the entire proceedings initiated against the petitioner after his retirement on 30.06.2025.

2. Facts of the case, in brief, are that the petitioner is a retired Technical Junior Engineer, Regulated Area, Farrukhabad. He attained the age of superannuation on 30.06.2025. Prior to his retirement, a complaint dated 25.04.2025 was moved against the petitioner before the Speaker, Vidhan Sabha, in respect of various alleged irregularities in discharge of duties between 2015 to 2022, whereupon the District Magistrate, Farrukhabad² was directed to conduct an inquiry. Pursuant thereto the District Magistrate constituted a Three-Member Committee, which has submitted its report dated 23.08.2025, wherein irregularities said to have been committed by the petitioner are mentioned at Sl. Nos. 3, 9, 14, 15

¹ Chief Town and Country Planner, U.P, Lucknow

² Respondent No. 4

and 17. By communication dated 28.08.2025, said inquiry report was forwarded by the District Magistrate to the respondent no. 3, who, in turn, vide a notice dated 19.09.2025 has asked the petitioner to submit reply. Said notice is under challenge in the present writ petition.

3. Mr. Prabhakar Awasthi, learned Senior Advocate, assisted by Shri Lavkush Singh, learned counsel for the petitioner submits that the petitioner, who retired from the post of Technical Junior Engineer, Regulated Area, Farrukhabad on 30.06.2025, has been put to notice by the order/ notice impugned relying upon a complaint as moved by brother-in-law of sitting Member of Legislative Assembly³. He further submits that there is no such provision of entertaining a complaint that too ignoring the provisions of the Rules of Procedure and Conduct of Business of the U.P. Legislative Assembly, 1958⁴, wherein the procedure for entertaining such complaints, so moved by any public representative, has been provided. The aforesaid complaint dated 25.04.2025 was moved before the Speaker, Vidhan Sabha, whereupon the District Magistrate was asked to inquire into the matter. On the basis of which, the District Magistrate constituted a Three-Member Committee, which has placed its report dated 23.08.2025 regarding the details of work as done by the petitioner between the period 2015 to 2022. Thus, the impugned notice as given to the petitioner, which has been initiated on such complaint, there being no provision for the same, that too being entertained ignoring the provisions of the Rules, 1958, is illegal and liable to be quashed.

4. Learned counsel for the petitioner contends that once the petitioner has retired on 30.06.2025, there is no longer an employer-employee relationship between the respondent authorities and the petitioner, thus in these conditions also no such notice should have been given to the petitioner calling for explanation for his work discharged between the period between 2015 to 2022. It is next

3 MLA

4 The Rules, 1958

submitted by learned counsel for the petitioner that no such proceedings could have been initiated against the petitioner in violation of Regulation 351-A of the Civil Service Regulations. He has drawn attention of the Court to an order dated 04.09.2024 passed by a Division bench of this Court in the case of **Sudheer Kumar Diwakar vs. State of UP and 4 others**⁵, wherein a complainant - Sudhir Kumar Diwakar had requested for action against the person posted as Prescribed Authority Regulated Area/ City Magistrate, Farrukhabad, which has not been entertained on the ground of not mentioning credentials by the complainant, against whom 28 criminal cases were registered.

5. Answering the aforesaid, learned Chief Standing Counsel for the State submits that the order impugned is merely a show cause notice and in view of the settled position of law, a petition against a show cause notice is not maintainable as no legal injury or prejudice has been caused to the petitioner at this stage. He further submits that the impugned notice has been issued in consonance with the relevant rules. He has also emphasized upon the irregularities mentioned in the inquiry report dated 23.08.2025, at Sl. Nos. 3, 9, 14, 15 & 17, which are pertaining to the years 2021, 2019 & 2021, 2020, 2022 and 2019 respectively. To substantiate his submission, he has also drawn attention of the Court to Page Nos. 68, 70, 71, 72, 73 & 74 of the writ petition.

6. I have heard Mr. Prabhakar Awasthi, learned Senior Advocate assisted by Shri Lavkush Singh, learned counsel for the petitioner and Shri Abhishek Srivastava, learned Chief Standing Counsel assisted by Shri Rishi Kumar, learned Additional Chief Standing Counsel appearing for the State.

7. The petitioner has retired from the post of Technical Junior Engineer, Regulated Area, Farrukhabad on 30.06.2025. The petition

itself enumerates that numerous complaints were made against him during his service stint. The impugned notice is also premised upon a complaint dated 25.04.2025 moved against the petitioner by a relative of public representative (MLA), which resulted in some inquiry and culminated in the notice, which is under challenge.

8. Indisputably, petitioner's services were governed under the provisions of U.P. Government Servant (Discipline and Appeal) Rules, 1999⁶. As per Rule 2(h) 'Government servant' means a person appointed to public services and posts in connection with the affairs of the State of Uttar Pradesh, and Rule 2(j) of the Rule, 1999 defines 'Services', which means the public services and posts in connection with the affairs of the State of Uttar Pradesh.

9. Perusal of record reveals that in the inquiry report dated 23.08.2025, at Sl. Nos. 3, 9, 14, 15 and 17 some irregularities have been found with respect to sanctioning of maps by the petitioner, to which he has been asked to submit reply vide impugned order dated 19.09.2025, which is a show cause notice only.

10. Learned senior counsel has framed his arguments, principally, in four folds: (i) relationship of employer and employee between the respondent authority and the petitioner, no longer exists owing to petitioner's superannuation; (ii) no complaint could have been entertained for the work discharged by the petitioner during the period 2015 to 2022, (iii) no proceedings could be initiated under Regulation 351-A of the Civil Service Regulations for the alleged irregularities, and (iv) the complaint is politically motivated as it has been moved by brother-in-law of a sitting MLA.

11. The first ground taken by learned Senior Counsel Mr. Awasthi, regarding the cessation of relationship of employer and employee between the respondent authority and the petitioner is untenable as the relevant rules i.e. Civil Service Regulations stipulates the procedure

for initiating action against a retired Government servant, and superannuation does not confer absolute independence from the charges or the allegations, if any, leveled for the work discharged during service period by a Government servant. Government Servant owes high standard of responsibility. He discharges duties merely not only to earn salary but his functioning contributes in building of Nation. Though the Statues and relevant rules prescribe an elaborate procedure for initiation of action against a retired Government servant, however, observing functioning of Government servants, this Court is constrained to observe that to curb the rapidly increasing corrupt practices in Government Departments in order to extend facilitation or favoritism for some vested reasons, no immunity should be accorded even to a retired person. It should remain open for the public or its representatives to reveal any ignorance of a Government servant, whether retired or in service, in discharge of his/ her official duties.

12. Insofar as, the second submission that the complaint could not be made against the petitioner for the work done by him during the period 2015 to 2022, is also unsustainable, as the infirmities/ irregularities pointed out at Sl. No. 15 of the impugned notice, are pertaining to the year 2022. Even though, limitation or time-frame to move application/complaint for any alleged laxity in discharge of official duty during service period by any Government servant is elucidated in proviso (a)(ii) to Regulation 351-A of the Civil Service Regulations, which says that departmental proceedings, if not instituted, while the officer was on duty either before retirement or during re-employment, shall be in respect of an event which took place not more than four years before the institution of such proceeding, therefore, this court does not find it appropriate to restrain the respondent authorities from asking the petitioner in regard to alleged irregularities committed by him.

13. The third argument as raised by learned counsel for the petitioner with respect to non-applicability of Regulation 351-A of Civil Service Regulations, also does not merit acceptance because the alleged work done by the petitioner, as pointed out at Sl. No. 15 of the inquiry report dated 23.08.2025 fall within the time period stipulated under Regulation 351-A. Relevant part of Regulation 351-A reads thus:

"351-A. The Governor reserves to himself the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specific period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if the pensioner is found in departmental or Judicial proceedings to have been guilty of grave misconduct, or to have caused pecuniary loss to Government by misconduct or negligence, during his service, including service rendered on re-employment after retirement:

Provided that----

(a) such departmental proceedings, if not instituted while the officer was on duty either before retirement or during re-employment---

(i)

(ii) shall be in respect of an event which took place not more than four years before the institution of such proceeding; and

(iii)

14. This Court does not find force in the fourth submission advanced by learned counsel for the petitioner, also, that the complainant is brother-in-law of sitting MLA, thus, the proceedings are under the influence of political motive. A public representative plays a crucial role in the society. He / she experiences numerous grievances of the public at large on ground level, thus, every complaint cannot be termed as politically motivated. Though, the present complaint is not made by the MLA himself, even otherwise any such complaint wherein the work assigned has been ignored by the person concerned (Government servant), moved by any person, be a public representative, could have been entertained.

15. The allegations made in the complaint cannot be ignored on the ground that they have been made by a public representative or his relative.

16. As regards the reference made by learned counsel for the petitioner with regard to the order dated 04.09.2024 passed by the

Division Bench of this Court in **Sudheer Kumar Diwakar (supra)**, submitting that said writ petition was not entertained, does not support the petitioner's case as the same was not entertained because of credentials of the petitioner therein and not on the aspect related to the present case.

17. In the present case the petitioner has assailed the show cause notice, whereby he has only been asked to submit reply with respect to the irregularities mentioned at Sl. Nos. 3, 9, 14, 15 and 17 of the inquiry report dated 23.08.2025. It is a settled proposition of law that a writ petition against a show cause notice is not maintainable. Reference may be made to the judgments of the Supreme Court in the case of **Calcutta Discount Co. Limited Vs. Income Tax Officer, Companies District and another⁷, Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh and others⁸, State of U.P. vs. Brahm Datt Sharma and another⁹, Union of India and others Vs. Metal Box Company of India Ltd. and another¹⁰, and Union of India & Anr. v. Kunisetty Satyanarayana¹¹.**

18. In view of the above discussion, no interference is called for in the present case. However, it is expected that the petitioner shall extend due cooperation by submitting his reply and the respondent authorities will adhere to the relevant rules applicable in the petitioner's case bearing in mind he is a retired Government servant.

19. The writ petition stands dismissed, accordingly.

20. No order as to costs.

(Mrs. Manju Rani Chauhan,J.)

November 15, 2025

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7 AIR 1961 SC 372

8 AIR 1996 SC 691

9 AIR 1987 SC 943 etc.

10 1996 SCC (11) 122

11 AIR 2007 SC 906