



2026:AHC-LKO:3392

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 13339 of 2025

Ashish Yadav

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Deptt. Of
Panchayati Raj Lko. And 3 Others

.....Respondent(s)

| | | |
|---------------------------|---|-------------|
| Counsel for Petitioner(s) | : | Alok Mishra |
| Counsel for Respondent(s) | : | C.S.C. |

Court No. - 7

HON'BLE MANISH MATHUR, J.

1. Heard Mr. Alok Mishra, learned counsel for petitioner and learned State Counsel for opposite parties.
2. Petition has been filed challenging order dated 06.11.2025 whereby petitioner has been placed under suspension during pendency of departmental proceedings. Also under challenge is the charge sheet dated 04.11.2025.
3. Rejoinder affidavit filed today is taken on record.
4. At the very outset, learned counsel for petitioner, on the basis of instructions, submits that he is not pressing his challenge to the continuance of departmental proceedings initiated vide charge sheet dated 04.11.2025 and is laying emphasis and only challenge to the order of suspension dated 06.11.2025.
5. It is submitted that a bare perusal of impugned order of suspension from service will indicate that it has been passed only in pursuance of certain letters and charge sheets dated 03.11.2025 and 04.11.2025 without any independent application of mind by the authority concerned.
6. It is submitted that in terms of Rule - 4 of U.P. Government Servant (Discipline and Appeal) Rules, 1999, it was incumbent

upon disciplinary authority to have applied independent mind to the allegations levelled against petitioner and to have recorded his subjective satisfaction with regard to aforesaid allegations being made against petitioner as well as seriousness thereof which in his opinion would culminate or entail a major penalty. It is submitted that due to failure of any such consideration, impugned order is vitiated. It has also been submitted that even in case of initiation of inquiry against a delinquent employee, suspension cannot be resorted to in an automatic manner and a subjective satisfaction is required by the disciplinary authority regarding seriousness of the charges to an extent that it would require imposition of major penalty.

7. He has placed reliance on judgments rendered by Hon'ble Supreme Court in ***State of Orissa v. Bimal Kumar Mohanty*** reported in AIR 1994 SC 2296 as well as Division Bench of this Court in ***Arvind Kumar Ram v. State of U.P. and others*** reported in 2007 (4) AWC 4163 All.

8. Learned State Counsel on the basis of short counter affidavit has refuted submissions advanced by learned counsel for petitioner with submission that a perusal of impugned order will make it evident that atleast five charges levelled against [petitioner have been noticed with charge No.1 being extremely serious since it pertained to orders passed by petitioner indicating alive persons as deceased. It is therefore submitted that impugned order has been passed clearly considering the aforesaid allegations against petitioner.

9. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, particularly impugned order of suspension from service dated 06.11.2025 that while noticing five charges levelled against petitioner, suspension order has been resorted to referring to orders and charge sheets dated 03.11.2025 and 04.11.2025. The order indicates that although five charges as indicated in the order have been imposed upon petitioner but the disciplinary authority in fact has resorted to

petitioner's suspension primarily on account of charge levelled at charge No.1 whereby pension of eight persons was stopped by the petitioner indicating such persons as deceased although they were as per allegations 'alive'.

10. In **Bimal Kumar Mohanty** (supra), Hon'ble Supreme Court has enunciated that order of suspension cannot be passed automatically and for the said purpose, gravity of misconduct sought to be enquired into or investigated and the nature of evidence placed before the appoint authority is required to be considered. The appointing authority or disciplinary authority should consider the above aspects and decide whether it is expedient to keep an employee under suspension pending aforesaid action. Relevant portion of the judgment is as follows:-

"12. It is thus settled law that normally when an appointed authority or the disciplinary authority seeks to suspend an employee, pending inquiry or contemplated inquiry or pending investigation into grave charges of misconduct or defalcation of funds or serious acts of omission and commission, the order of suspension would be passed after taking into consideration the gravity of the misconduct sought to be inquired into or investigated and the nature of the evidence placed before the appointing authority and on application of the mind by disciplinary authority. Appointing authority or disciplinary authority should consider the above aspects and decide whether it is expedient to keep an employee under suspension pending aforesaid action. It would not be as an administrative routine or an automatic order to suspend an employee. It should be on consideration of the gravity of the alleged misconduct or the nature of the allegations imputed to the delinquent employee."

11. The aforesaid judgment has thereafter been followed by a Division Bench of this Court in **Arvind Kumar Ram** (supra) in the following manner:-

"11. From perusal of Rule 4 it is clear that a Government servant

*can be suspended by the appointing authority against whose conduct an inquiry is contemplated or pending. The first proviso to the rule makes it obligatory for the appointing authority not to suspend an employee unless the allegation are so serious that in the event they are established then it would warrant the imposition of major penalty. The rule inherently lays down that suspension should not be resorted to by the appointing authority as a matter of routine but only after the appointing is satisfied that the allegations are so grave and serious against the government servant that if they are established it would result in removing or dismissing etc., the employee from service in other words, every omission or error in discharge of duty by the Government servant may not be sufficient to suspend him. No hard and fast rule can be laid down as to what allegation would be serious, which may warrant (sic. warrant) major penalty. But the appointing authority under the first proviso to the rule is required to apply its own independent mind to the allegations against the employee and then arrive, on the material on record, to a prima facie conclusion that the allegations against the employee were such that it warranted suspension. Material on record, has been explained in **State of U.P. v. Jai Singh Dixit** reported in 1975 (2) SLR 754:1975 ALR 64, means not only the complaint or allegations etc. but the circumstances justifying the opinion that on inquiry the employee may ordinarily be liable for major penalty."*

12. Upon applicability of aforesaid judgments in the present facts and circumstances, it is thus evident that for the purpose of suspension of a delinquent employee, it would be necessary for disciplinary authority to consider allegations and charges levelled against the delinquent employee and suspension is to be resorted to only in case the charges are so grave and serious that if established would result in a major penalty to be visited upon the employee. Although it has been held that there is no hard and fast rule which can be laid down as to which allegations would be serious but in terms of first proviso to Rule 4 of Rules of 1999, an independent mind is required to be applied with regard to

allegations levelled against an employee on the material on record to record *prima facie* conclusion that such an employee would warrant suspension.

13. Upon applicability of aforesaid judgments in the present facts and circumstances of the case, it is evident that impugned has been passed only on the basis of orders and charge-sheets dated 03.11.2025 and 04.11.2025 as well as indicating charges levelled against petitioner. There does not appear to be any subjective satisfaction recorded by the authority concerned with regard to the fact whether the charges levelled against petitioner are serious enough to entail major penalty in case established or that the suspension is warranted. Evidently, the impugned order has been passed suspending petitioner automatically on initiation of disciplinary proceedings.

14. In view of discussion made here-in-above, impugned order of suspension from service dated 06.11.2025 does not pass muster with regard to liability enunciated. Same is therefore quashed by issuance of a Writ in the nature of Certiorari granting liberty to disciplinary authority to pass orders fresh in case so warranted but in keeping with the observations made here-in-above and the judgments on that issue.

15. Resultantly, petition succeeds and is **allowed** to the aforesaid extent. It is clarified that this order shall not preclude continuance of inquiry proceedings against petitioner. Parties to bear their own costs.

January 16, 2026

lakshman

(Manish Mathur,J.)