

(2026) 08 UK CK 2643

In the Uttarakhand High Court

Case No : Writ Petition Service Single No. 1971 of 2026

Ajeet Kumar

APPELLANT

Vs

State Of Uttarakhand & Ors.

RESPONDENT

Date of Decision : 05-08-2026

Acts Referred:

U.P. Home Guard Act, 1963 — Section 12(1)

Citation : (2026) 08 UK CK 2643

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Mr. M.C. Pant, Mr. N.S. Pundir, Mr. R.C. Joshi

Final Decision : Allowed

Judgement

Hon'ble Pankaj Purohit, J.

Since common questions of fact and law are involved in both these petitions, therefore, these petitions are being decided by this common judgment. However, for the sake of brevity and convenience, the facts of WPSS No.1971 of 2026 alone are being considered and discussed.

2. By means of the present writ petition, petitioner has challenged the order dated 15.06.2026 (annexure-1 to the writ petition) passed by the District Commandant, Home Guards, whereby petitioner was restrained from performing duties as a Home Guard.

3. Petitioner is a Home Guard on part-time duty. Petitioner was served with a notice dated 11.06.2026 calling upon him to explain as to why action should not be taken against him, as he was allegedly found consuming liquor during duty hours, which, according to the Home Guard Organisation, amounted to misconduct. Petitioner submitted his reply denying and refuting the allegations made in the show cause notice. However, vide impugned order dated 15.06.2026, petitioner was restrained from performing the duties of a Home Guard on the ground that his explanation was found to be unsatisfactory.

4. Petitioner contends that while passing the impugned order, principles of natural justice were not complied with and that the order is contrary to law, as there is no provision under the U.P. Home Guard Act, 1963 (for short "the Act, 1963") authorising the passing of an order restraining a Home Guard on part-time duty from performing his duties.

5. This Court, vide order dated 27.07.2026, called for instructions from the learned State Counsel as to under which provision of law petitioner was restrained from performing his duties.

6. Today, Dr. B.P.K. Prasad, Commandant-in-Chief, Home Guards, joined the proceedings through video conferencing and submitted that action was taken against the petitioner as he was found in an inebriated condition and a bottle of liquor was recovered from him by the Commandant himself. Therefore, he directed the District Commandant, Home Guards, to take disciplinary action against the petitioner. Accordingly, respondent-Deputy Commandant, Home Guards, issued a show cause notice dated 11.06.2026 calling upon the petitioner to submit his reply/explanation. After considering the reply and finding the same to be unsatisfactory, an order restraining the petitioner from performing his duties was passed vide the impugned order as per Section 12(1) of the Act, 1963. Section 12(1) of the Act, 1963 is quoted herein below:-

"12.Discharge, suspension and resignation.-(1) The Commandant-General or any other officer prescribed in this behalf shall have the authority to discharge or suspend any member of the Home Guard in accordance with the rules made in this behalf. A Home Guard may resign from the force after giving one month's notice delivered to such officers as may be prescribed."

7. Having heard learned counsel for the parties, as well as after giving a patient hearing to Dr. B.P.K. Prasad, Commandant-in-Chief, Home Guards, this Court is of the view that Section 12(1) of the Act, 1963 empowers the Commandant-in-Chief or any other authorised officer to suspend or discharge any Home Guard in accordance with the rules made in this behalf.

8. There is no dispute that, at present, no rules have been framed in this regard, and yet the order restraining the petitioner from performing his duties has been passed. Once there is no rule empowering the District Commandant to restrain a Home Guard from performing his duties, this Court is of the view that the action taken by the respondent-department is contrary to law and violative of the principles of natural justice. Accordingly, the order dated 15.06.2026 suffers from illegality and is hereby quashed. However, liberty is granted to the respondents to pass a fresh order after adhering to the principles of natural justice.

9. Both the writ petitions are hereby allowed with the aforesaid liberty granted to the respondents.

10. Pending application, if any, stands disposed of accordingly.