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**(2003) 08 AHC CK 0018**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 49479 of 2000**

Prakash Singh and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

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**Date of Decision :** 06-08-2003

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Penal Code, 1860 (IPC) — Section 224  
Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules,  
1991 — Rule 17

**Citation :** (2003) 6 AWC 4872

**Hon'ble Judges :** Rakesh Tiwari, J

**Bench :** Single Bench

**Advocate :** Jagannath Singh, for the Appellant;

**Final Decision :** Dismissed

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## Judgement

Rakesh Tiwari, J.—Heard counsel for the parties and perused the record.

2. The Petitioners were appointed as a Police Constable. They were placed under suspension by order dated 10.2.1999. The Petitioner had also filed a Writ Petition No. 39590 of 1999, which was disposed of by this Court by order dated 15.9.1999 with the observation that in case the charge-sheet submitted against the Petitioners the departmental enquiry would remain in abeyance. By means of this petition a prayer for quashing the suspension order passed on 10.2.1999 in contemplation of the departmental enquiry has been made.

3. The brief facts of the case leading to the suspension of the Petitioner are that they were posted as constable in Police Line, Agra and were given duty of producing accused persons before the Chief Judicial Magistrate, Bareilly. After producing the accused persons, the Petitioners were coming back by train to Agra from Bareilly with the accused.

4. It is alleged that the accused persons jumped from the running train and

escaped from the custody of the Petitioners. Thereafter Petitioner No. 2 Hari Mohan Gaur lodged an F.I.R. in police station Rakabganj, District Agra on 9.2.1999 and a case u/s 224, I.P.C. was registered against the Petitioners. They were suspended by the aforesaid impugned order dated 10.2.1999. The Petitioners surrendered themselves before the criminal court and were released on bail. A charge-sheet dated 13.8.1999 was issued to them and departmental proceedings were initiated. They filed a Writ Petition No. 39590 of 1999 Hari Mohan Gaur and Ors. v. State of U.P. and Ors. which was disposed of by order dated 15.9.1999. The relevant operative portion is as under:

"The writ petition is finally disposed of with the direction that for the time being the departmental proceedings against the Petitioners shall remain stayed for a period of one month, though the Petitioners shall remain under suspension. In case a charge-sheet is submitted in the criminal case against the Petitioners, the departmental enquiry shall not take place till criminal trial is brought to a logical conclusion. If, however, no charge-sheet is submitted against the Petitioners and final report is submitted against them, in that event the departmental proceedings shall go on.

Sd/- O. P. Garg.....J. Date: 15.9.1999

5. This petition has been filed on the ground that criminal charge-sheet has been submitted in the criminal court and a criminal case will take more time for disposal and as such the impugned order of suspension will cause great loss to the applicants and is liable to quashed. The other ground is that the Petitioner's request for increase of subsistence allowances though this Court has stayed the departmental enquiry proceedings and lastly that the order of suspension is liable to be quashed. It is also averred that the Petitioner No. 2 Hari Mohan Gaur will retire from service on 31.7.2001 and as such departmental proceedings cannot be continued against him and that after his retirement, the Respondents are bound to pay all the dues to him in view of judgment of the Apex Court in Bhagirathi Jena Vs. Board of Directors, O.S.F.C. and Others, .

6. It is contended under Rule 4 of the Uttar Pradesh Pension Ke Mamlon Ki (Prastutikaran, Nistaran Aur Vilamb Ka Pariverjan) Niyamawali, 1995 provides that the pension papers will be provided to the Government servant before 8 (eight) months from the date of retirement and all the formalities will be completed before the date of retirement. He further stated that the Government order dated 5.7.1997 the preparation of the pension papers must be started before two years from the date of retirement of the Government servants.

7. Counter-affidavit has been filed on behalf of the State inter alia stating that police force is a disciplined force and the Respondent failed to discharge their duty with utmost responsibility.

8. It is submitted by the standing counsel that this Court stayed departmental proceedings only for a period of one month, which has expired and further the averments made in paragraph 11 of the counter-affidavit are not admitted. It is

also submitted by him that the representation of the Petitioner No. 2 dated 20.10.2000 is being considered and it is not a fit case for interference under Article 226 of the Constitution of India inasmuch as the lapse in duty by the Petitioner is very grave due to which four accused/convicted had escaped themselves from their custody.

9. On the own showing of the Petitioner a charge-sheet in the criminal case has been submitted against them. The suspension of the Petitioner is under Rule 17 of the U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991. In Writ Petition No. 39590 of 1999, direction has already been given by this Court, that in case charge-sheet is submitted in the criminal case against the Petitioner, the departmental enquiry against them will not proceed till criminal charge is brought to its logical end.

10. For the reasons stated above it is not a fit case for interference under Article 226 of the Constitution of India. However, they may be given subsistence allowance in accordance with Rules. With the aforesaid observations the writ petition is dismissed.

11. No order as to costs.