

**(2001) 04 AHC CK 0024**

**Allahabad High Court**

**Case No:** C.M.W.P. No. 40670 of 2000

Mahavir Prasad Sharma

APPELLANT

Vs

State of U.P. and others

RESPONDENT

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**Date of Decision:** April 18, 2001

**Acts Referred:**

- Constitution of India, 1950 - Article 14, 309

**Citation:** (2001) AWC 1591 : (2001) 89 FLR 958 : (2001) LabIC 3527 : (2001) 3 UPLBEC 2060

**Hon'ble Judges:** O. Bhatt, J; M. Katju, J

**Bench:** Division Bench

**Advocate:** S.N. Babulkar, for the Appellant;

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### **Judgement**

M. Katju and O. Bhatt, JJ.

In this case, learned standing counsel was granted six weeks time to file counter-affidavit by order dated 12.9.2000. Thereafter on 6.2.2000, he was granted three weeks and no more time to file counter-affidavit but as yet, no counter-affidavit has been filed. Hence, we treat the allegations in the writ petition to be correct.

2. The petitioner retired as D.I.O.S. on 31.7.1993. On 10.6.1993. he was served with a charge-sheet and thereafter in 1994, he was served with a supplementary charge-sheet but it is deeply regrettable that inquiry has not yet been completed and the petitioner is only getting provisional pension. In our opinion, the inquiry cannot be kept pending for so many years.

3. Learned counsel for the petitioner relies on the rules dated 2.11.1995 made under Article 309 of the Constitution vide Annexure-8. In clause 17 of the same, it is mentioned that if inquiry commences before the retirement, then it must be completed within six months after the retirement. In the present case, the petitioner retired on 31.7.1993 and hence almost eight years have expired but the inquiry has not been completed. In the circumstances, continuance of the inquiry is wholly

arbitrary, and anything which is arbitrary is violative of Article 14 of the Constitution as held by the Supreme Court in [Mrs. Maneka Gandhi Vs. Union of India \(UOI\) and Another,](#) . Hence, we quash both the charge-sheet and supplementary charge-sheet and direct that the petitioner shall be given final pension including all benefits and arrears and interest from the date when it was due at the rate 12% within two months of production of a certified copy of this order in accordance with law. The petition is allowed.