

**(2008) 08 AHC CK 0350**

**Allahabad High Court (Lucknow Bench)**

**Case No:** Writ Petition No. 6531 of 1993

Satish Chandra Gupta

APPELLANT

Vs

State of U.P. and others

RESPONDENT

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**Date of Decision:** Aug. 25, 2008

**Acts Referred:**

- Constitution of India, 1950 - Article 226

**Citation:** (2009) 120 FLR 8

**Hon'ble Judges:** Devi Prasad Singh, J

**Bench:** Single Bench

**Advocate:** Paras Nath Singh, for the Appellant;

**Final Decision:** Allowed

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### **Judgement**

Devi Prasad Singh, J.

This is writ petition under Article 226 of the Constitution of India against the impugned order of punishment coupled with censure entry.

The solitary ground raised by the learned Counsel for the petitioner is that the impugned order is in contravention of principles of natural justice without holding departmental inquiry after serving the charge-sheet.

2. In view of settled proposition of law in Union of India v. Mohd. Ramzan Khan 1990 (61) FLR 736 (SC), the impugned order suffers from substantial illegality. The averments contained in para 8 to the writ contain categorical pleading with regard to nonservice of inquiry report which has not been denied.

3. It has been stated by the learned Standing Counsel that since there is no provisions of serving a copy of inquiry, the petitioner was not entitled for the same.

4. I have considered the arguments advanced by the parties Counsel and perused the record.

5. Service of inquiry report has been held to be necessary for compliance of principle of natural justice, in the case of Ramzan Khan (supra). It shall be incumbent on the disciplinary authority to serve inquiry report and in absence of service of inquiry report, the impugned order of punishment vitiates. Accordingly, the writ petition deserves to be allowed.

6. The writ petition is allowed. A writ in the nature of certiorari is issued quashing the impugned order dated 19.5.1993 contained in Annexure No. 1 to the writ petition with all consequential benefits of service. Since the petitioner has retired from service in the year 1994, it shall not be justified to give liberty to respondents to proceed afresh.

There shall be no order as to costs;