

# **Lata Singh vs State Of U.P. And 3 Others on 31 January, 2025**

**Author: Prakash Padia**

**Bench: Prakash Padia**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:14265

Court No. - 7

Case :- WRIT - A No. - 1190 of 2025

Petitioner :- Lata Singh

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Siddharth Khare

Counsel for Respondent :- Akanksha Sharma,C.S.C.

Hon'ble Prakash Padia,J.

1. Heard Sri Siddharth Khare, learned counsel for the petitioner, learned Standing Counsel for the respondents no.1 & 2 and Ms. Akanksha Sharma, learned counsel for the respondents no.3 & 4.

2. The petitioner has preferred present writ petition inter-alia with the following prayer:-

"(a) a writ, order or direction in the nature of mandamus commanding the respondents to sanction arrears of salary to the petitioner between 17.08.2015 and 05.05.2016 the period when she remained under suspension with interest at a rate to be specified by this Hon'ble Court.

(b) a writ, order or direction in the nature of mandamus commanding the respondents to disburse the medical claim of the petitioner between 06.08.2012 and 26.08.2012 with interest at a rate to be specified by this Hon'ble Court."

3. The facts in brief as contained in the writ petition is that petitioner was placed under suspension vide order dated 17.08.2015 passed by the respondent no.4 namely District Basic Education Officer, Moradabad. The aforesaid suspension order was revoked by him vide its order dated 05.05.2016. While reinstating the petitioner following observations were made, which reads as follows :-

"??? ?????? ?????? ??? ?????? ?? ?? ??? ?????????? ?? ????? ?? ????????? ??? ????? ????? ??  
????????? ?????????? ??????? 04,05,09,10 ??? 11 ?????? 2015 ?? ????? ?????? ?? ??? ?????????  
????? 2015-16 ??? ?????????? ?????????? ????? ??? ??? ?? ??? ?????????? ?? ?????? ??????  
????? ?? ????? ?? ????? ????? ??? ?????? ?????? ?????? ?????? ?? ?????????? ?????  
????? ???"

4. Pursuant to the aforesaid, representations were made by the petitioner before the authorities for making the full salary for the period of suspension. The aforesaid representation of the petitioner was duly looked into and thereafter enquiry committee was constituted, who submitted his report on 28.10.2021. Pursuant to the aforesaid respondent no.4 passed an order dated 21.04.2022. The operative portion of which reads as follows :-..

"??? ????????? ?? ????? ?? ????????? ??? ?????, ?????????? ????? ?? ?????????? ??? ?????? ??????  
/ ?????????? ?????? ?????????????? ?????????? ?????? ?????????-????????????????? ?? ?????????? ??  
????????????? ??????? 04, 05, 09, 10, 11 ??????-2015 ?? ????? ??? ????? ?? ??? ????? ??????  
????? ?? ????? ????? ?????????? ?????????? ?????????? ?? ?????????? ?????????? ????? ?? ?????????? ?? ???  
?????? ????? ????? ?? ????????? ?? ??? ?? ?????????? ????? ??? ?????????? ????? 2015-16 ??? ?? ???  
????????????? ????????????? '?? ????????? ????? ?????? ???"

5. It is argued that in the aforesaid order observations were made that petitioner will be paid the full salary for the period of suspension after the verification of his attendance register by the Block Development Officer, Dilari, District Moradabad.

6. Sri Siddharth Khare, learned counsel for the petitioner placed reliance upon a letter dated 01.06.2024 written by the Block Education Officer, Dilari, District Moradabad to the petitioner by which he was directed to produce the original copy of his attendance-sheet on or before 05.06.2024.

7. In response to the same, a letter dated 05.06.2024 was written by the petitioner to the Block Education Officer, Dilari, District Moradabad stating therein that suspended employee cannot be compelled to mark attendance. He also placed reliance upon judgement delivered by the Hon'ble Apex Court in the case of Anwarun Nisha Khatoon Vs. State of Bihar and others reported in AIR 2002 (SC) 2959. He placed reliance upon paragraphs 7, 8 & 9 of the aforesaid judgement, which reads as follows :--

"7. Mr. B. B. Singh relied upon the authority of the Patna High Court in the case of Ganesh Ram v. State of Bihar reported in 1995 (2) PLJR 690, wherein, after considering the above mentioned rules, it has been held that after suspension it is not necessary that the employee must attend work. It is held that a suspended employee cannot be compelled to mark attendance. It has been held that the authority is, however, entitled to ensure itself about the presence of the suspended employee at the headquarter before making payment of subsistence allowance. It is held that in the event of a dispute it will be for the employee to establish his presence at the headquarter.

8. In our view, this authority, far from assisting the Respondents, is against them. This authority shows that there is no requirement to mark attendance. To us also no rule could be shown which required a suspended employee to mark attendance. The Respondents can at the most ask for a certificate that the Appellant's husband was not engaged in any other employment, business, profession or vocation. The Appellant's husband having died, he could not have furnished such a certificate. At no stage have the Respondents asked the Appellant to give such a certificate. Thus the grant of subsistence allowance cannot be denied on the ground that such a certificate is not given.

9. This view of ours is supported by an authority of this Court in the case of Jagdamba Prasad Shukla v. State of U.P. reported in (2000) 7 SCC 90. In this case, on identical facts, it has been held that if the State requires a certificate they should ask for it. It has been held that without asking for such a certificate the State cannot reject a claim for subsistence allowance."

8. On the basis of aforesaid it is argued by counsel for the petitioner that petitioner cannot be compelled to place the copy of the attendance register during the period he was under suspension. It is further argued that the period for which petitioner was placed under suspension she will be paid salary meaning thereby to fulfill the terms and conditions of the order of suspension in which one of the condition was that petitioner will be attached to the institution in which she was working at the time of suspension.

9. On the other hand it is argued by Ms. Akansha Sharma, learned counsel for the respondents no.3 & 4 that since the petitioner has not placed copy of the proof of his attendance before the authorities, no decision has been taken till date regarding the payment of full salary for the period of suspension as stated above.

10. With the consent of learned counsel for the parties, the writ petition is being disposed of at the admission stage itself.

11. In the facts and circumstances of the case and also in the interest of justice, petitioner is permitted to submit a fresh representation ventilating all her grievances before the respondent no.3-Secretary, Board of Basic Education, U.P., Prayagraj along-with certified copy of this order

within a period of three weeks from today. If such a representation is made, the respondent no.3 is directed to pass appropriate order strictly in accordance with law and without influenced by the observations made hereinabove within a further period of six weeks.

12. In so far as prayer no.2 is concerned, petitioner is further directed to place necessary papers and documents in this regard also before the respondent no.3, who will take a decision in the matter.

13. With the aforesaid observations, present writ petition is disposed of finally.

Order Date :- 31.1.2025 Pramod Tripathi