

**BEFORE THE UTTARAKHAND PUBLIC SERVICES
TRIBUNAL, DEHRADUN**

Present: Sri V.K. Maheshwari

----- Vice Chairman (J)

&

Sri D.K. Kotia

----- Vice Chairman (A)

CLAIM PETITION NO. 59/DB/2013

Constable No. 1662, Bhoopendra Chand Ramola, S/o Shri Sunder
Singh Ramola, 40th Battalion P.A.C., Haridwar

.....Petitioner

VERSUS

1. State of Uttarakhand through Principal Secretary, Home, Civil
Secretariat, Dehradun,
2. Commandant, 40th Battalion, P.A.C., Haridwar,
3. Deputy Inspector General, P.A.C., Police Headquarters,
Uttarakhand, Dehradun.

.....Respondents

Present: Sri Shashank Pandey &
Sri Nishant Chaturvedi, Counsel
for the petitioner

Sri Umesh Dhaundiya, P.O
for the respondents

JUDGMENT

DATE: SEPTEMBER 26, 2014.

DELIVERED BY SRI D.K.KOTIA, VICE CHAIRMAN (A)

1. The petitioner has filed this petition for seeking following reliefs:

- “a. To issue order or direction quashing the order dated 26.03.12 by which the petitioner was punished with a censure entry (Annexure A1),*
- b. To issue order or direction quashing the order dated 21.07.12 by which the appeal of the Petition was rejected by Respondent no.3 (Annexure A2),*
- c. Any other relief that the Hon’ble Tribunal may deem proper and proper,*
- d. Cost of petition to the Petitioner.”*

2. The brief facts of the case are that the petitioner is a Constable (No. 1622) in 40th Battalion of the PAC, Haridwar. The allegations against the petitioner are that on 06.01.2012 while on duty at around 9:00 P.M. after the consumption of alcohol, misbehaved with the Guard Commander and used abusive language for senior officers. A preliminary inquiry was conducted and the inquiry officer submitted the report on 23.01.2012 (Annexure: A-4). On the basis of the preliminary inquiry report, the petitioner was issued a show cause notice for his indiscipline on 10.02.2012 as to why a censure entry be not awarded to him for consumption of alcohol while on duty, mibehaviour with the Guard Commander and using abusive

language for the senior officers (Annexure:A-5). After considering the reply to the show cause notice given by the petitioner on 20.02.2012 (Annexure: A-6), the competent authority passed an order on 26.03.2012 (Annexure; A-1) whereby the following censure entry was given to be placed in the character roll of the petitioner:

2011

“वर्ष 2012 में जब आरक्षी 1662 भूपेन्द्र रमोला 40 वीं0 वाहिनी पीएसी, हरिद्वार के डी दल में नियुक्त था, और वाहिनी के गेट नं0 01 पर डी दल की गार्द में नियुक्त रहते हुए दिनांक 06.01.2012 को समय 2120 बजे शराब का सेवन कर गार्द कमाण्डर के साथ गाली गलौच एवं उच्चाधिकारियों के विरुद्ध अपशब्दों का प्रयोग करने के फलस्वरूप इसका चिकित्सीय परीक्षण जिला चिकित्सालय हरिद्वार में कराया गया, चिकित्सा परीक्षण में इसके द्वारा शराब का सेवन किये जाने की पुष्टि हुई। पीएसी जैसे अनुशासित बल में रहते हुए ड्यूटी के दौरान शराब का सेवन कर गार्द कमाण्डर के साथ गाली गलौच करना एवं उच्चाधिकारियों के विरुद्ध अपशब्दों का प्रयोग किया जाना इसका अपने कर्तव्यों के प्रति घोर अनुशासनहीनता, उदण्डता एवं स्वेच्छारिता का द्योतक है, जिसकी परिनिन्दा की जाती है’

The petitioner thereafter, filed an Appeal (Annexure : A7) against the censure entry on 10.04.2012 which was dismissed by the Appellate Authority on 21.07.2012 (Annexure: A2). Hence this claim petition. Though the Claim Petition does not mention but it was revealed from the inquiry file that the petitioner also filed a Revision against the dismissal of the Appeal on 07.10.2012, but the same was also dismissed by the competent authority on 12.02.2013.

3. The main contention of the petitioner in the Claim Petition is that all the oral disposition of the witnesses recorded during the preliminary inquiry stated that the petitioner was neither under the influence of alcohol nor misbehaved with the Guard Commander. It is also contended that during the medical examination no blood test or urine test was conducted and the doctor who conducted the examination was not permitted to be cross examined. The petitioner prayed that the impugned orders be quashed.

4. The respondents have filed the written statement stating that sufficient opportunity was provided to the petitioner and he has rightly been found guilty and due process of law and rules has been followed in awarding the impugned punishment which is a minor penalty i.e censure entry. The respondents have stated to dismiss the petition.

5. We have heard learned counsel for the petitioner as well as respondents and perused the record and inquiry file carefully.

6. Learned counsel for the petitioner contended that during the medical examination of the petitioner no blood or urine test was conducted and the doctor was also not examined and therefore, no opportunity was available to the petitioner for his cross-examination. Without going into merit of this contention, we find it pertinent to mention that the perusal of the preliminary inquiry report reveals that while conducting the inquiry, the statement of the petitioner was also taken which in original is available in the inquiry file and the petitioner in his statement has himself accepted that in the evening of 6th January, 2012 he

(along with another Constable named Shekhar Rawat) had gone to 'have drinks' and came back at Gate No.1 at 7:30 P.M. for his duty from 8:00 P.M. to 11:00 P.M.. Thus, there is a clear admission of consumption of alcohol by the petitioner when he was on duty. We, therefore, agree with the finding that the petitioner had come on his duty after the consumption of alcohol.

7. Learned counsel for the petitioner further contended that all the witnesses whose statements were recorded by the inquiry officer while conducting preliminary inquiry have stated that the petitioner did not misbehave with the Guard Commander or used abusive language for the senior officers. We perused the inquiry file and gone through the statements of all the witnesses. The inquiry officer has recorded the statements of 16 witnesses in all. We find that none of these witnesses has stated that the petitioner misbehaved or used abusive language. Rather, when asked specifically by the inquiry officer, they have categorically stated that the petitioner did not misbehave or used abusive language. In the statement of Guard Commander also (against whom misbehavior by the petitioner has been mentioned in the censure entry), it has been clearly stated by him that the petitioner did not say anything. The inquiry officer in his report in the conclusion has also mentioned about the indiscipline consumption of alcohol only and not the misbehavior or use of abusive language by the petitioner.

8. We, therefore, are of the view that the part of the censure entry which mentions misbehavior with the Guard Commander and use of abusive language for senior officers is without basis and unjust. The consumption of alcohol while on duty is

established by the admission of the petitioner himself apart from the statements of other witnesses and, therefore, that part of the censure entry need not be interfered.

9. For the reasons stated above, we are of the view that the censure entry deserves to be modified and petition deserves to be disposed of accordingly.

ORDER

The claim petition is partly allowed. The respondents are directed to expunge only that part of the censure entry which relates to the indiscipline due to misbehavior with the Guard Commander or use of abusive language for senior officers. No order as to costs.

Sd/-

V.K.MAHESHWARI
VICE CHAIRMAN (J)

Sd/-

D.K.KOTIA
VICE CHAIRMAN (A)

DATE: SEPTEMBER 26, 2014.
DEHRADUN

KNP