

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

Present: Hon'ble Mr. Justice J.C.S.Rawat

----- Chairman

&

Hon'ble Sri U.D.Chaube

----- Member (A)

CLAIM PETITION NO. 07/SB/2014

Jeeto Kamboj, W/o Sri B.V.Kumar, Posted as Station Officer, Mailathana,
Srinagar, District Pauri

.....Petitioner

VERSUS

1. State of Uttarakhand through Principal Secretary (Home), Civil Secretariat, Dehradun,
2. Director General of Police, Police Headquarters, Uttarakhand,
3. Deputy Inspector General of Police, Haridwar, Uttarakhand,
4. Senior Superintendent of Police, Haridwar,
5. Circle Officer, Haridwar City, Haridwar.

.....Respondents

Present: Sri Shashank Pandey, Ld. Counsel
for the petitioner
Sri Umesh Dhaundiyal, Ld. A.P.O.
for the respondents

JUDGMENT

DATE: DECEMBER 05, 2014

HON'BLE MR. JUSTICE J.C.S. RAWAT, CHAIRMAN:

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

"It is therefore most respectfully prayed that the Hon'ble Tribunal may graciously be pleased;

- i. To issue order or direction quashing the order dated 31.05.2011 and order dated 06.08.2013.*

ii. *To give any other relief that the Hon'ble Tribunal may graciously be pleased to grant.*

iii. *To give cost of petition to the petitioner."*

2. It is an admitted case of both the parties that the petitioner was posted as Sub-Inspector in Police Station, Thana Kotwali, Hardwar in the year 2010. The petitioner received a show cause notice on 22.02.2011, in which she was asked to explain that she had committed certain mistakes and irregularities in the investigation of Crime No. 112/2010 U/S 420,467,468,471,457,380, 427 of IPC. The petitioner submitted her reply to the show cause notice and stated that the mistakes and irregularities committed by her in the investigation of Case no. 112/2010, were rectified by the petitioner. The petitioner was punished by the S.S.P. by awarding censure entry in her Character Roll. Feeling aggrieved by the said punishment order, the petitioner has preferred an appeal before the competent authority, who rejected the same on 06.08.2013. Feeling aggrieved by the said order, the petitioner has filed this claim petition.

3. The petitioner has further alleged that she got three notices, which are Annexure A-4 and A-5(Colly). The said notices were replied and the petitioner was exonerated in other two cases and punished in the instant case. The petitioner has alleged that the punishing authority was adamant to punish the respondents in one of the case. The petitioner has further alleged in the claim petition that mistakes were inadvertent errors and the punishment awarded is completely illegal and the supervisory officer could have rectified the mistakes committed by the petitioner.

4. The respondents have filed written statement and alleged that the Circle Officer informed the petitioner to rectify the irregularities committed in the case diary by the petitioner. The petitioner was asked to appear and to rectify the mistakes. Notices were given to the petitioner, but of no avail. Neither she turned up nor she made corrections as desired by the Circle Officer. When the petitioner did not appear to correct the mistakes and irregularities in the case diary, the matter was referred to the S.S.P. for necessary action. The S.S.P. instituted a preliminary enquiry,

which was conducted by the Assistant Superintendent of Police, Sri Sunil Kumar Mina. He found the petitioner guilty for not removing the mistakes and irregularities in the case diary and she had not given the reply of the notice given by the Deputy Superintendent of Police. After receiving the said report, the S.S.P. has issued a show cause notice awarding censure entry in her Character Roll. The respondents have further supported the order of respondents and prayed that the petition may be dismissed with cost.

5. We have heard both the parties and perused the record carefully.

6. Learned counsel for the petitioner has contended that three show cause notices on the same date and pertaining to the similar subject matter were given to the petitioner, which clearly reflects the adamant mind set of the respondents to punish the petitioner. In two notices, the petitioner was exonerated, whereas, in other third, in case crime no. 112/2010, the petitioner was punished by the censure entry. Hence the circumstances reveal that the petitioner was made a scapegoat by the respondents for their annoyance. Learned counsel for the petitioner further contended that the mistakes, which have been committed by the petitioner, had already been removed and she submitted her reply to the notices given by the Circle Officer. The learned A.P.O. has refuted the contention and contended that the petitioner had admitted in her claim petition as well as in the petition of appeal that she had committed minor mistakes. Para 2 and 3 of the claim petition are the revelation to the said factum that she had admitted that mistakes were due to inadvertence.

7. It is no doubt that there are mistakes in the case diary as the petitioner has alleged, it was inadvertent and whereas, the respondents have stated that the petitioner did not bother even to the directions of the Circle Officer to rectify them within a stipulated period and she did not reply to the notices given by the Circle Officer. It is a well settled proposition of law that this Tribunal is not a fact finding Tribunal, but the Tribunal can enter into judicial review of the manner of awarding the punishment. It is settled proposition of law that judicial review is not akin

to adjudication on merits by re-appreciating the evidence as an appellate authority. The only consideration of the Court/Tribunal has in its judicial review, is to consider whether the conclusion is based on evidence on record and supports the finding or whether the conclusion is based on no evidence. The adequacy or reliability of the evidence is not a matter which can be permitted to be canvassed before the Court/Tribunal in the claim petition. An order can be set aside if it is based on extraneous grounds, or when there are no grounds at all for passing it or when the grounds are such that, no one can reasonably arrive at such opinion. The Court does not sit as a court of appeal but, it merely reviews the manner in which the decision was made. The court will not normally exercise its power of judicial review unless it is found that formation of belief by the statutory authority suffers from malafides, dishonest/corrupt practice. The authority must act in good faith. Neither the question as to whether there was sufficient evidence before the authority can be raised/examined, nor the question of re-appreciating the evidence to examine the correctness of the order under challenge. If there are sufficient grounds for passing an order, then even if one of them is found to be correct, and on its basis the order impugned can be passed, there is no occasion for the Court to interfere. The jurisdiction is circumscribed and confined to correct errors of law or procedural error, if any, resulting in manifest miscarriage of justice or violation of principles of natural justice. The Court/Tribunal even when some defect is found in the decision making process, the court must exercise its discretionary power with great caution keeping in mind the larger public interest and only when it comes to the conclusion that overwhelming public interest requires, the court should intervene.

8. In the light of the above proposition of law, now we have to examine the factual scenario of the present case. It is admitted case of the petitioner that certain mistakes had been committed in the case diary, though it may be very trifle, but it may be very major during the trial. The petitioner was given the notices to rectify the mistakes committed by her in the case diary, but she even did not bother to reply the same or to correct the errors well in time. The respondents have filed the copy of the notices along with its written statement and the petitioner has not filed the

copy of reply given to Circle Officer in the claim petition of the same. The petitioner had not filed the copy of the reply submitted to Circle Officer as stipulated in the notices of the Circle Officer. If she had replied, she would have submitted the copy of the reply before the court. The learned counsel for the petitioner could not demonstrate the said reply before the court from the original record, which has been summoned from the department. The petitioner has submitted her reply to the notices of punishment given by the SSP in the original record. Learned counsel for the petitioner could not demonstrate in the said reply that the petitioner has stated that she submitted her reply to the Circle Officer in reply to the notices. Thus, if the notices would have been replied, the said fact would have been mentioned. It is further found from the original record that reply of the petitioner against the show cause notices clearly indicates that the petitioner has committed certain mistakes in the case diary, as such it is sufficient for the competent authority to award the punishment. As we have narrated earlier that if there is some evidence against the petitioner, this Court cannot re-appreciate the findings recorded by the punishing authority. In view of the above, we find that the order is not liable to be interfered on account of the fact that there was no evidence against the petitioner.

9. Whereas the manner of the enquiry for punishing the petitioner for minor offence has been observed, it is in accordance with law. The punishing authority for his satisfaction directed to hold the preliminary enquiry by the Assistant Superintendent of Police and the Assistant Superintendent of Police after taking the evidence has held that the petitioner is guilty for the charges levelled against her and he submitted his report to the S.S.P. There upon, the S.S.P, the Punishing authority has issued the show cause notices arriving into conclusion on the perusal of preliminary enquiry that she is prima-facie guilty of the misconduct and thereafter, a show cause notice of the tentative conclusion of punishing authority and the proposed punishment to the petitioner was given and further he has given an opportunity to explain within stipulated period as to why this censure entry should not be given to her. After receiving the reply and considering the reply, the punishment order of censure entry was

passed. The punishing authority has conducted the proceedings for the minor punishment as contemplated in the rules. The petitioner has not shown any illegality in conducting the enquiry and there is no ground in the claim petition to that effect.

10. In view of the above, the claim petition is liable to be dismissed.

ORDER

The claim petition is hereby dismissed. The parties shall bear their own costs.

Sd/

U.D.CHAUBE
MEMBER (A)

Sd/-

JUSTICE J.C.S.RAWAT
CHAIRMAN

DATE: DECEMBER 05, 2014
DEHRADUN

KNP