

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
BENCH AT NAINITAL**

Present: Hon'ble Mr. Rajendra Singh

-----Vice Chairman (J)

**CLAIM PETITION NO. 121/NB/SB/2021**

Gopal Ram, aged about 50 years, s/o Shri Kishan Ram, r/o Dabey, Post-Chaunala, District Udham Singh Nagar.

.....Petitioner

**Vs.**

1. State of Uttarakhand through Principal Secretary, Department of Home, Govt. Of Uttarakhand, Dehradun.
2. Director General of Police, Uttarakhand Police Headquarters, Uttarakhand, Dehradun.
3. Deputy Inspector General of Police, Kumaon Range, Nainital.
4. Senior Superintendent of Police, District Udham Singh Nagar.

.....Respondents

Present: Sri Vinay Kumar, Advocate for the Petitioner  
Sri Kishore Kumar, A.P.O., for the Respondents

**JUDGMENT**

**DATED: DECEMBER 15, 2022**

By means of the present claim petition, the petitioner seeks the following reliefs:

*“(i) To quash the impugned Punishment Order dated 21<sup>st</sup> September 2019 passed by the Senior Superintendent of Police, Udham Singh Nagar, whereby the Claimant has been imposed the minor punishment of Censure Entry. (Annexure No.1).*

*(ii) To quash the impugned Appellate Order dated 04<sup>th</sup> January 2020 passed by the Deputy Inspector General of Police, Kumaon Range, Nainital, whereby the Departmental Appeal filed by the claimant has been rejected and the Punishment Order dated 21 September 2021 passed by the Senior Superintendent of Police, Udham Singh Nagar (Annexure No.-2), has been affirmed.*

*(iii) To quash the impugned Order dated 23rd March 2021 passed by the Director General of Police, Uttarakhand Dehradun, whereby Punishment Order and the Appellate Order has been confirmed, (Annexure No.3).*

*(iv) To award the cost of the petition or to pass such order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case."*

2. Brief facts, as per the claim petition, are that in the year 2018, when the petitioner was posted as Constable at Police Station Pantnagar, Sub Inspector (Civil Police) (woman) posted in Police Station Pantnagar seized two vehicles (Truck) bearing no. U.K-04 C.B -2882 and U.K 04 C.B-0156 under Section 184, 202, 194, 179 and 207 of Motor Vehicles Act. Both the vehicles belong to Sri Tikam Singh Negi S/o Natthu Singh Negi residence of village Kishanpur post office Devalchaur Haldwani and after seizure of both the vehicles, were brought at Police Station Pantnagar. After depositing of the compounding fees, both the vehicles were released in favour of the vehicles.

3. On 28.11.2018, S.S.P., District Udham Singh Nagar, appointed the Circle Officer, Rudrapur as preliminary enquiry officer to conduct the enquiry against the petitioner on the charge that the petitioner has illegally received Rs. 1000/- for release of the trucks. The Inquiry Officer submitted his enquiry report to the S.S.P, Udham Singh Nagar in the month of July 2019.

4. The Disciplinary Authority/Senior Superintendent of Police, Udham Singh Nagar issued a show cause notice to the petitioner, requiring the petitioner to reply to show cause within 15 days. The petitioner submitted his written reply on 31<sup>st</sup> August, 2019 denying allegations levelled against him.

5. The Disciplinary Authority/Senior Superintendent of Police, Udham Singh Nagar, passed the impugned order dated 21.09.2019, imposing the punishment of Censure Entry, without considering the reply submitted by the petitioner. The departmental Appeal preferred by the petitioner against the impugned was also dismissed by the Appellate Authority vide impugned order dated 04 January 2020. The petitioner preferred a Writ Petition No. 704 (S/S) of 2020 "Gopal Ram V/S State & Ors", before the Hon'ble High Court of Uttarakhand against

the punishment order dated 31 July 2019 and the order of the Appellate Authority dated 04 January 2020. The Writ Petition was permitted to be withdrawn with the liberty to prefer the statutory revision before Director General of Police. The petitioner preferred the Revision before the Director General of Police on 27th December 2020 which was rejected vide order dated 23<sup>rd</sup> March 2021 on the ground that the allegation stands proved against the petitioner. The orders impugned are not sustainable for the reason that the same is perverse inasmuch as the same is based on the Preliminary Enquiry Report and in the Preliminary Enquiry Report there is no evidence against the petitioner to hold that the petitioner guilty of the charge levelled against him.

6. Counter Affidavit has been filed on behalf of the respondents stating that respondent authorities after following the due procedure as prescribed in the Uttarakhand (U.P. Subordinate Class Police Officers/Employees [Punishment & Appeal] Rules, 1991) adoptions and modification orders 2002 passed the punishment order and the appellate authority after going through the record and evidence rejected the appeal of the petitioner. Thus the punishment orders are just and proper and no interference of this Hon'ble Court is required in the matter and the claim petition is liable to be dismissed. It has further stated that in the year 2018 when the petitioner was posted as constable at Police Station Pantnagar then on 18-11- 2018 Sub Inspector Roshni Rawat challaned and seized two vehicles (Truck) Bearing No. U Ko 04CB-2882 and UK-04 CB-0156 of Mr. Tikam Singh S/o Nathu Singh R/o Village Kishanpur P.O, Develchaur P.S. Haldwani under section 184, 202, 194, 179 and 207 of M.V. Act. Thereafter the CO. City Rudrapur on 22-11-2018 released the aforesaid vehicles by taking compounding fees. Thereafter a complaint was made to the S.S.P. Udham Singh Nagar about taking bribe of Rs. 1000/- by the petitioner then the respondent no.4 after receiving complaint for taking bribe of Rs. 500/- each for releasing two vehicles by the petitioner directed for preliminary enquiry and appointed C.O. City Rudrapur to conduct the inquiry and thereafter

the enquiry officer conducted the enquiry and submitted his report on 19-07-2019 and found the petitioner guilty. After receiving the enquiry report the disciplinary authority issued show cause notice to the petitioner on 02-08-2019 under Rule 14 (2) of Uttarakhand (U.P. Subordinate Class Police Officers/Employees [Punishment & Appeal] Rules, 1991) adoptions and modification orders 2002 and section 23(2) of Uttarakhand Police Act 2007 and directed the petitioner submit the reply the same. The petitioner thereafter submitted his reply on 02-09-2019. Thereafter the disciplinary authority after going through the reply of the petitioner and relevant documents passed the punishment order with giving his specific findings on the reply of the petitioner. Thereafter the petitioner filed the statutory appeal under section 26 of the Uttarakhand Police Act 2007 before the respondent no.2 and the appellate authority vide its detailed and reasoned order dated 04-01-2020 rejected the appeal by recording his findings.

The disciplinary authority by giving opportunity of hearing to the petitioner as per the Rule 14(2) of Uttarakhand (U.P. Subordinate Class Police Officers/Employees [Punishment & Appeal] Rules, 1991) adoptions and modification orders 2002 and section 23(2) B of Uttarakhand Police Act 2007 and after going through the reply of the petitioner passed the punishment order and the appellate authority also after perusing the record rejected the appeal of the petitioner by a reasoned and explanatory order. Thus there is no merit in the claim petition and the claim petition is liable to be dismissed.

7. I have heard learned Counsel for the petitioner and learned A.P.O. and perused the record.

8. Learned Counsel for the petitioner has argued that the petitioner was posted as Constable at Police Station Pantnagar, Sub Inspector (Civil Police) (woman) posted in Police Station Pantnagar seized two vehicles (Truck) bearing no. U.K-04 C.B -2882 and U.K 04 C.B-0156 under Section 184, 202, 194, 179 and 207 of Motor Vehicles Act

belong to Sri Tikam Singh Negi S/o Natthu Singh Negi residence of village Kishanpur post office Devalchaur Haldwani and after seizure of both the vehicles, were brought at Police Station Pantnagar. After depositing of the compounding fees, both the vehicles were released in favour of the vehicles' owner. The inquiry was conducted by the Circle Officer, Rudrapur in respect of allegation of illegal collecting Rs. 1000/- from Tikam Singh Negi S/o Nathu Singh Negi for releasing of the Vehicle, which was seized and placed in Police Station Pantnagar. He has further argued that on the basis of the Preliminary Enquiry report, the Disciplinary Authority/Senior Superintendent of Police, Udham Singh Nagar issued a show cause notice to the petitioner. The petitioner submitted his written reply on 31<sup>st</sup> August, 2019 denying allegations levelled against him. The Disciplinary Authority passed the impugned order dated 21.09.2019, imposing the punishment of Censure Entry, on the ground that the Preliminary Enquiry was conducted as per rules and that in the video clip submitted by the constable Navin Kumar clearly shows that the petitioner has received Rs 1000/- in lieu of release of Vehicles. The Appellate Authority also dismissed the appeal preferred by the petitioner on 04.01.2020 on the ground that the charge levelled against the petitioner stands proved in the Preliminary Enquiry Report. Thereafter, petitioner preferred the Revision before the Director General of Police on 27th December 2020 which was also rejected vide order dated 23 March 2021 on the ground that the allegation stands proved against the petitioner. The orders impugned in the Claim Petition are not sustainable for the reason that the same are perverse in as much as the same are based on the Preliminary Enquiry Report and in the Preliminary Enquiry Report there is no evidence against the petitioner to hold that the petitioner guilty of the charge levelled against him.

9. The disciplinary proceedings were initiated against the petitioner on the complaint made by Tikam Singh but Tikam Singh has specifically submitted before the Preliminary Enquiry Officer that he

made the complaint against the petitioner under misconception and without proper knowledge of the facts and thus he does not want to take any action against the petitioner. He has further submitted that once the Complainant Tikam Singh has not supported the allegation leveled against the petitioner there was no evidence against the petitioner before the Preliminary Enquiry Officer or Disciplinary Authority to hold the petitioner guilty of the charges leveled against the Petitioner.

10. The video clip relied upon by the Preliminary Enquiry Officer to hold the petitioner guilty of the charge is not sustainable for the reason that from the video clip it could not be proved that the petitioner has accepted the money from the driver of the trucks for releasing the trucks, more so when it has been the specific stand of the petitioner that the money was returned by the trucks drivers, which they have taken from the petitioner.

11. The orders impugned in the Claim Petition imposing punishment on the petitioner are not sustainable for the reason that the Authorities have not considered the fact that the veracity and genuineness of the video clip, which is the basis of the complaint lodged against the petitioner, has not been established in the Preliminary Enquiry Report, as the person who has prepared the video clip has not been examined by the Preliminary Enquiry Officer.

12. The orders impugned in the claim petition are not sustainable for the reason that the same is not based on evidence but is based on the assumption of the authorities that the petitioner has received the amount of Rs.1000/-, and the same is for releasing of the vehicle.

13. Learned A.P.O. on behalf of the respondents has argued that a complaint was made by Sri Tikam Singh Negi S/o Nathu Singh Negi for releasing of the Vehicles, which were seized and placed in Police Station Pantnagar to the S.S.P. Udham Singh Nagar about taking bribe of Rs. 1000 by the petitioner The respondent no.4 after receiving complaint

for taking bribe of Rs. 500/- each for releasing two vehicles by the petitioner directed for preliminary enquiry and appointed C.O. City Rudrapur to conduct the inquiry and thereafter the enquiry officer conducted the enquiry and submitted his report on 19-07-2019 and found the petitioner guilty. Respondent authorities after following the due procedure as prescribed in the Uttarakhand (U.P. Subordinate Class Police Officers/Employees [Punishment & Appeal] Rules, 1991) adoptions and modification orders 2002 passed the punishment order and the appellate authority after going through the record and evidence rejected the appeal of the petitioner. Thus the punishment orders are just and proper and no interference of this Hon'ble Court is required in the matter and the claim petition is liable to be dismissed.

14. The imputation against the petitioner is that he had received Rs.1000/- as illegal gratification in lieu of releasing of the vehicles which stands proved in the Preliminary Enquiry. The show cause notice 31.07.2019 mentioned that the said act of the petitioner amounts to Gross negligence, Indifference, Injudicious, Indolence and Indifference towards the duty. The perusal of the Preliminary Enquiry report shows that the Complainant Shri Tikam Singh Negi S/o of Nathu Singh Negi in his statement has specifically stated that his two vehicles were seized by the Pantnagar Police station on 18.11.2018 and they brought to Pantnagar Police Station. He further stated that these two trucks remained in Pantnagar Police Station for 6 days and the drivers did not had sufficient money for purchase of food and, therefore, the money was given by the Police Constable/clerk posted in Pantnagar Police station. After release of the vehicle, the drivers returned the money to the police personnel, and the Complainant in the absence of the knowledge of the said fact, made the Complaint against the petitioner. The Complainant further stated that, he does not want any action against the petitioner. In the Preliminary Enquiry the statement of the petitioner was also recorded; wherein the petitioner pointed out that in the month of November, 2018, he was posted in Pantnagar Police

Station. The petitioner further stated that the two trucks belonging to Shri Tikam Singh were seized and the same remained parked in the campus of the police Station 4-5 days. The drivers of the trucks did not had sufficient money for purchase of food and therefore the money was given to them by the petitioner, which was returned by the drivers after release of the vehicles. The Enquiry Officer even after recording a finding that the video forwarded by the Complainant is not clear and the voice was also not even, then petitioner was held guilty of receiving 1000/- rupees as illegal gratification from the drivers. These truck drivers were the key witnesses from whom the alleged illegal gratification is said to have been taken by the petitioner, have not been examined during the inquiry. The punishment has been imposed upon the petitioner only on the ground that the he is seen in the video taking money from the drivers, but the Authorities have failed to take into consideration the fact that the Preliminary Enquiry Officer has observed that the video clip is not clear. The alleged video clip could not prove that the petitioner has demanded illegal money from the truck drivers and thus there was no reason and evidence before the Preliminary Enquiry Officer and Authorities to disbelieve the defence taken by the petitioner. Perusal of the orders impugned in the Claim Petition show that none of the authorities have given any reason for not accepting the defence taken by the petitioner before the Preliminary Enquiry Officer, more particularly when the Complainant has specifically stated that he was not aware of the true fact of the case. The allegation against the petitioner is that he has demanded the money for releasing the vehicles from the drivers of the two seized trucks. The trucks drives should have also been examined during the inquiry to come to the true conclusion, which has not been done in the instant case. The petitioner was wrongly held guilty of taking illegal money from the drivers on the basis of the alleged video clip. The orders impugned in the Claim Petition are not sustainable for the reason that the same are perverse, inasmuch as the same are based on the Preliminary Enquiry Report and in the Preliminary Enquiry Report there is no evidence against the petitioner



to hold him guilty of the charge levelled against him. The impugned orders are not sustainable for the reason that the same are based on conjecture and not on the basis of any reliable evidence inasmuch as there is no iota of evidence against the petitioner and are liable to be quashed.

15. Accordingly, the claim petition is allowed. The impugned punishment orders dated 21.09.2019, 04.01.2020 and 23.03.2021 passed by the respondents are hereby set aside. The respondents are directed to expunge the censure entry awarded to the petitioner, within 30 days from passing of this order. No order as to costs.

**(RAJENDRA SINGH)**  
VICE CHAIRMAN (J)

*DATE: DECEMBER 15, 2022.*  
*DEHRADUN*  
*KNP*