

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

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

EXECUTION APPLICATION NO. 02 /DB/2023

*(Arising out of judgment dated 06.07.2022,
passed in Claim petition No. 72/DB/2022)*

Lokesh Kumar.

...Petitioner-Applicant

vs.

State of Uttarakhand through Secretary, Home and others.

.....Respondents.

Present: Ms. Deepika Dixit Dhyani (online) &
Sri Harshpal Singh, Advocates, for the petitioner- applicant
Sri V.P.Devrani, A.P.O., for Respondent State.

JUDGMENT

DATED: JANUARY 20, 2023

Justice U.C.Dhyani (Oral)

Present execution application has been filed by the petitioner-applicant to direct respondent authority to comply with the judgement and order dated 06.07.2022 passed by this Tribunal in Claim Petition No.

72/DB/2022, Lokesh Kumar vs. State of Uttarakhand and others. The said judgment reads as below:

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

I. To set aside the order No. PF-07/2011 dated 06.11.2012 wherein the petitioner has been dismissed from the service and reinstate the petitioner from the date of dismissal from the service.

II. To set aside the order of the DIGP Garhwal Range, No. COG-CA-15/2022 dated 03.02.2022 wherein the appeal has been rejected on the ground of time barred.

III. To direct the respondent no. 4 to decide the appeal filed by the petitioner and pass reasoned and speaking order on the appeal..

IV. To direct the respondent to grant all the consequential service benefits had the petitioner was continue in service.

V. To pass any other suitable order, which this Hon'ble Tribunal may deem fit and proper on the basis of the facts and circumstances of the case.

VI. Award the cost of the claim petition in favour of the petitioner.”

2. Petitioner was appointed as Constable in the Uttarakhand Police in 2007. His services were dismissed by S.S.P., Dehradun *vide* Order No PF 07/2011 dated 06.11.2012 under the provisions of the Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991. Petitioner filed a departmental appeal against the impugned punishment order of dismissal before the D.I.G., Police, Garhwal Range. The said departmental appeal was rejected by the appellate authority on 03.02.2022, on the ground of delay. It is the submission of Ld. Counsel for the petitioner that the appeal was rejected without application of mind.

3. Ld. A.P.O. submitted that although the claim petition has been filed within time from the date of order dated 03.02.2022 passed by the Ld. Appellate authority, which was not decided on merits and was dismissed on the ground of delay, but the first impugned order was passed on 06.11.2012. There is inordinate delay in filing the departmental appeal and, therefore, the claim petition should not be admitted.

4. The Tribunal has noticed that there might be delay in filing the departmental appeal, but there is no delay in filing the claim petition, which has been filed within a year of the appellate order.

5. At the very outset, Ld. Counsel for the petitioner prayed that a direction be given to the appellate authority to decide the departmental appeal of the petitioner, on merits, in accordance with law.

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11. This Tribunal, therefore, in the peculiar facts of the case, deems it appropriate to relegate the matter to the appellate authority for deciding the departmental appeal of the petitioner, on merits, in accordance with law.

12. Appellate Order dated 03.02.2022 passed by DIG, Police, Garhwal Range, Respondent No.4, is set aside. The claim petition is, accordingly, disposed of at the admission stage by directing the appellate authority to decide the departmental appeal of the petitioner, which is against the impugned order dated 06.11.2012 (Annexure: A 1), on merits, at an earliest possible, without unreasonable delay, in accordance with law.

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2. Ld. Counsel for the petitioner submitted that the appellate authority (D.I.G., Garhwal Range) may kindly be directed to decide the departmental appeal of the petitioner, on merits, without further delay.

3. Ld. A.P.O., on seeking instructions from the respondent department, submitted that the departmental appeal of the petitioner is pending decision of the appellate authority (D.I.G., Garhwal Range). Since there was no time limit prescribed in Tribunal's order dated 06.07.2022, therefore, there is no disobedience to the orders of the Tribunal on the part of the appellate authority,

4. Ld. A.P.O., however, submitted that the departmental appeal of the petitioner shall be decided without further delay. Ld. Counsel for the petitioner are satisfied with such statement of Ld. A.P.O. and pray that the departmental appeal may kindly be directed to be decided at the earliest.

5. No useful purpose will be served by keeping the execution application pending. The Tribunal records the aforesaid statement of Ld. A.P.O. and closes the execution application with the directions upon the appellate authority to make an endeavour to decide the departmental appeal of the petitioner-appellant, without unreasonable delay.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JANUARY 20, 2023
DEHRADUN

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