

**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)

Claim Petition No. 56/SB/2023

Sri Birendra Singh Rawat, s/o Bharat Singh Rawat, r/o House No. 3,
Bharath, Uttarkashi, Uttarakhand.

.....Petitioner

versus

1. State of Uttarakhand, through Secretary, Department of Home Affairs, Dehradun.
2. The Superintendent of Police, Uttarkashi.
3. The Inspector General of Police (Garhwal Region), Uttarakhand.

..... Respondents

Present: Sri Abdul Hameed, Advocate, for the petitioner
Sri V.P. Devrani, Advocate, for respondents

Judgement

Dated: 21st March, 2023

Justice U.C. Dhyani (Oral)

By means of present claim petition, the petitioner seeks to set aside the impugned order dated 27.07.2019 (Annexure: A1), which has been affirmed by the Appellate Authority *vide* order dated 20.11.2019 (Annexure: A2).

2. Petitioner was awarded 'censure entry' by the disciplinary authority (S.P., Uttarkashi), which has been upheld by I.G., Garhwal Range, in departmental appeal.

3. Aggrieved with the same, present claim petition has been filed by the petitioner.

3. Learned Counsel for the petitioner placed a copy of judgement rendered by this Tribunal on 02.01.2023 in Claim Petition No. 38/SB/2020, Deepak Chaudhary vs. State of Uttarakhand and others. Relevant paras of the judgment read as under:

"6. Learned Counsel for the petitioner drew attention of this Tribunal towards sub-section (2) of Section 86 of the Uttarakhand Police Act, 2007, to submit that "Rules or Regulations made under the provisions of the said Act (*i.e. The Indian Police Act, 1861*) shall, insofar as it is not inconsistent with the provisions of this Act be deemed to have been made under the corresponding provisions of the Act and shall continue to be in force unless and until superseded by anything done or action taken under this Act."

7. Sri V.P. Devrani, learned A.P.O., submitted that there is no provision of revision under the Uttarakhand Police Act, 2007.

8. In reply, learned Counsel for the petitioner submitted that the U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991, have been framed under the Indian Police Act, 1861. No rules or regulations have, so far been framed under the Uttarakhand Police Act, 2007, and therefore, the remedy of revision is available to the petitioner inasmuch as it is not inconsistent with the provisions of Uttarakhand Police Act, 2007 and therefore, revision will lie.

9. Without prejudice to rival contentions, the claim petition is disposed of by giving liberty to the petitioner to submit an application for revision to the Authority next in rank above by which his appeal has been rejected, within four weeks from today. The delay in filing such application is condoned in the interest of justice [Section 5 of the Limitation Act, 1963 applies to the applications also].

10. If such revision is filed by the petitioner, within the aforesaid period, the competent authority shall decide the same without unreasonable delay, in accordance with law. No order as to costs."

4. Learned Counsel for the petitioner, therefore, confined his prayer to the extent that the present claim petition be decided in the light of the judgement rendered by this Tribunal on 02.01.2023 in Claim Petition No. 38/SB/2020, Deepak Chaudhary vs. State of Uttarakhand

and others. Innocuous prayer of the learned Counsel of the petitioner should be allowed.

5. Present claim petition is disposed of, at the admission stage, in terms of the decision rendered by this Tribunal on 02.01.2023 in Claim Petition No. 38/SB/2020, Deepak Chaudhary vs. State of Uttarakhand and others.

6. Order accordingly.

7. Without prejudice to rival contentions, the claim petition is disposed of by giving liberty to the petitioner to submit an application for revision to the Authority next in rank above by which his appeal has been rejected, within 8 weeks from today. The delay in filing such application is condoned in the interest of justice [Section 5 of the Limitation Act, 1963 applies to the applications also].

8. If such revision is filed by the petitioner, within the aforesaid period, the competent authority shall decide the same without unreasonable delay, in accordance with law. No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
[virtually from Nainital]

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: 21st March, 2023

DEHRADUN

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