

**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. 07/SB/2021**

Rajendra Singh Khatri, aged about 58 years, s/o late Sri Nihal Singh Khatri, r/o Unnati Vihar Extension, Lower Nathanpur, Dehradun, employed as Officiating Executive Engineer, Provincial Division, Public Works Department, Bhatwari, Uttarkashi.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, P.W.D., Government of Uttarakhand, Secretariat, Dehradun.
2. The Engineer-in-Chief, Public Works Department, Uttarakhand.

..... Respondents

Present: Sri L.K. Maithani, Advocate, for the Petitioner  
Sri V.P. Devrani, A.P.O. for the Respondents

**Judgement**

**Dated: 01<sup>st</sup> May, 2023**

**Justice U.C. Dhyani (Oral)**

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

"(i) That this Hon'ble Tribunal may graciously be pleased to quash the impugned special adverse entry order dated 18.08.2020 and impugned order dated 10.12.2020 of respondent No. 1 (Annexure No. A-1 and A-2 of the Claim

Petition), along with charge sheet dated 24.02.2017(Annexure No. A-11) with its effects and operation.

(ii) To declare that the petitioner is entitled for all consequential benefits of services, which are withheld and barred due to the above impugned orders issued by the respondent number 1 and therefore an order or direction be issued to the respondents to review the D.P.C. dated May 2020 and consider the petitioner for promotion to the post of Executive Engineer since the date of promotion of his juniors and other persons with all the consequential benefits.

(iii) .....

(iv) ....."

2. Learned Counsel for the petitioner submitted that the petitioner, who was posted as Officiating Executive Engineer in Provincial Division, Public Works Department, Bhatwari, Uttarkashi, has since retired, therefore, he will be entitled to notional promotion if the special adverse entry, which is subject matter of present claim petition, is expunged.

3. Learned Counsel for the petitioner further submitted that the present claim petition is covered by the decision rendered by this Tribunal on 27.05.2022 in Claim Petition No. 16/SB/2021, Arun Kumar Goel vs. State of Uttarakhand and another.

4. In reply, learned A.P.O. submitted that the Tribunal in Goel's case had expunged the special adverse entry leaving it open to the respondents to proceed afresh against the petitioner, in accordance with law.

5. Learned A.P.O., relying upon the G.O. 1712/karmik-2/2003 dated 18.12.2003 of the Personnel Department, Govt. of Uttarakhand, submitted that special adverse entry can be awarded to an employee for a particular incident. Learned A.P.O. also drew attention of the Tribunal towards G.O. 1371//III(1)/20-21(sa)/2020 dated 06.11.2020 to argue that special adverse entry could be given to an employee as punishment. G.O. dated 06.11.2020 refers to the G.O. dated 08.01.2003 and 18.12.2003. It may be

pointed that it is nowhere mentioned in G.O. dated 18.12.2003 that special adverse entry can be given to an employee as punishment. It will be relevant to mention here that para 11(2) of the G.O. dated 18.12.2003 has reference of censure, reprimand, warning etc. to say that the same will be deemed to be adverse entry, to be kept in the character roll of a gazetted officer.

6. Learned Counsel for the petitioner further submitted that the enquiry officer was appointed and he only served the charge sheet upon the delinquent officer. Reply was considered only by the enquiry officer and not by the appointing authority. No show cause notice was issued to the delinquent petitioner after enquiry. Copy of enquiry report was also not given to the petitioner. He also submitted that the special adverse entry has been awarded to the petitioner as punishment, which cannot be given in law. Respondents have submitted in para 6 of C.A. that there is violation of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 (as amended in 2010). Two enquiries were conducted against the petitioner, one by the District Magistrate and other by the departmental enquiry officer. In both the enquires, nothing adverse was found against the petitioner

7. In reply, learned A.P.O. submitted that the above-noted procedure shall be followed only when major penalty is contemplated against the petitioner.

8. The Tribunal observes that Office Memorandum dated 18.08.2020 (Annexure: A1) has been issued as punishment.

9. G.O. dated 06.11.2020 is dependent upon the G.O. dated 08.01.2003 & G.O. dated 18.12.2003, which nowhere says that the special adverse entry may be given as a punishment. A reference of the opinion given by the Personnel Department has been given in G.O. dated 06.11.2020, which, probably, might be peculiar to the facts of the Sri N.P. Singh, Superintending

Engineer and Sri Naveen Lal Sharma, Assistant Engineer, P.W.D., in whose reference such opinion was given. Thus, the Tribunal finds that special adverse entry could not have been given to the petitioner by way of punishment.

10. Since present claim petition is covered by the decision rendered by this Tribunal on 27.05.2022 in Claim Petition No. 16/SB/2021, Arun Kumar Goel vs. State of Uttarakhand and another, therefore, the same should be decided in terms of the aforesaid decision.

11. On the basis of the above discussion and as observed in para 9 of this order that special adverse entry could not have been given to the petitioner by way of punishment, the impugned punishment order dated 18.08.2020 and the order dated 10.12.2020 by which the representation/revision against the punishment order was rejected, are liable to be set aside and are, accordingly, set aside, leaving it open to the respondents to proceed afresh against the petitioner, in accordance with law.

**(RAJEEV GUPTA)**  
VICE CHAIRMAN (A)

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: 01<sup>st</sup> May, 2023*  
*DEHRADUN*  
*RS*