

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

**Claim Petition No. 43/SB/2022**

Suresh Kumar, s/o late Sri Kanthu Ram, Sub Inspector, Kotwali  
Rudraprayag, Uttarakhand.

.....Petitioner

versus

1. State of Uttarakhand through its Secretary, Home Department, Government of Uttarakhand, Dehradun.
2. Director General of Police, Headquarters Dehradun, Uttarakhand.
3. Deputy Inspector General of Police, Garhwal Range, Dehradun, Uttarakhand.
4. Senior Superintendent of Police, District Rudraprayag.
5. Senior Superintendent of Police, District Chamoli.

..... Respondents

Present: Dr. N.K. Pant, Advocate, for the petitioner  
Sri V.P. Devrani, A.P.O. for the respondents (*online*)

**Judgement**

**Dated: 27<sup>th</sup> April, 2023**

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

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

“(i) Issue an order of direction calling for the record and to  
quash the censure given by the SSP Chamoli vide his letter  
dated 20-04-2021 as well as impugned rejection order dated 18-  
01-2022.

(ii) Issue any suitable claim, order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(iii) Award the cost of claim petition to the petitioner."

2. The petitioner was posted as SOG Incharge in the District Chamoli in the year 2015. A complaint was made by *Mahila Sanrakshan Samiti*, Chamoli, that in the suicide/ murder case of a victim (name withheld), some police officers and employees of district Chamoli are involved. Certain complaints were made against S/Sri Sanjay Rawat, Rajesh Rawat and Sanjay Chauhan (not the petitioner). The enquiry was conducted by Circle Officer, Karanprayag, District Chamoli. No involvement of present petitioner was found in the suicide case. Despite the fact that there was no evidence and no involvement of the petitioner in the suicide case, a show cause notice was issued by the respondent on 17.01.2021 to the petitioner under Sub-Rule (2) of Rule 14 of U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991 (as applicable to the State of Uttarakhand) (herein after referred to as 'Rules of 1991').

2.1 Explanation to the show cause notice dated 17.01.2021 was furnished by the petitioner on 16.04.2021. The disciplinary authority was not satisfied with the same. The 'censure entry' under Sub-Rule (2) of Rule 14 of the Rules of 1991 was awarded to the petitioner. He filed an appeal to the appellate authority, who did not find favour with the petitioner and upheld the order dated 20.04.2021, passed by the disciplinary authority *vide* order dated 18.01.2022.

2.2 Faced with no other alternative, the petitioner has filed the present claim petition.

2.3 The imputation against the petitioner is that on a confidential enquiry regarding involvement of subordinate police officers and employees in the suicide of a victim (who was a resident of Village Maso, Nandprayag), although there was no concrete documentary evidence against the petitioner, yet on a discreet enquiry, it was found that the petitioner had relations with the victim and another woman, against whom a charge sheet, being case crime no. 15/2015 under Section 365 I.P.C. was submitted. The imputation is that the petitioner influenced the investigating officers of the criminal case. The soft and hard copy of CDR of mobile numbers of the deceased and woman accused were not available in SOG office. Nothing was found in the SOG office. Petitioner was officer in-charge SOG, Chamoli at the relevant point of time. It is the allegation that he tried to eliminate the evidence in order to save himself. The role of the present petitioner was found suspicious. He was, therefore, awarded 'censure entry'.

2.4 Petitioner filed the departmental appeal against the same. The appellate authority *vide* order dated 18.01.2022 dealt with the memorandum of appeal and dismissed the departmental appeal. The conclusion arrived by the disciplinary authority was affirmed by the appellate authority.

3. C.A./ W.S. has been filed by Ms. Natasha Singh, Deputy Superintendent of Police, Operation and Traffic, District Chamoli on behalf of the respondents. Learned A.P.O. submitted that enclosure CA: 1 has been filed with this C.A. to show that the delinquent petitioner used to go to Chopta, Pipalkoti and other places with the victim and his role was found suspicious. The report of LIU has been submitted with the C.A. Learned A.P.O. further submitted that the same has been mentioned in the show cause notice. The said fact has

also been substantiated in the preliminary enquiry conducted by Circle Officer, Karanprayag, District Chamoli.

3.1 In reply, Dr. N.K. Pant, learned Counsel for the petitioner submitted that these documents were never supplied to the petitioner with show cause notice.

3.2 In reply to such submission of learned Counsel for the petitioner, learned A.P.O. submitted that since the documents were confidential in nature therefore, confidential documents were not supplied to the petitioner.

4. One of the most glaring features of present case is that there was no evidence against the petitioner, which fact has been mentioned in the impugned order itself. It has been mentioned therein that there is no concrete documentary evidence against the petitioner. Petitioner was the head of SOG in district Chamoli when the suicide was committed by the victim. It may be noted here that the petitioner is nowhere named in the FIR. The complaint (not the criminal complaint) was made against S/Sri Sanjay Rawat, Rajesh Rawat and Sanjay Chauhan, but not against the petitioner. It was only on confidential enquiry (not on record) that the petitioner was issued show cause notice. He replied to the same. 'Censure entry' was awarded to him. Even though the petitioner was Incharge SOG in district Chamoli when the suicide took place, what is the evidence against the petitioner? There is no concrete documentary evidence against him, which is admitted by the disciplinary authority (and appellate authority). The petitioner, it appears, has been given 'censure entry' only on the basis of suspicion. It is true that everybody, including the Govt. servant is supposed to obey law and not to do anything which is violative of any Conduct Rules, but it is also trite law that a Govt. servant cannot be censured only on account of

surmises and conjectures. It is alleged that he tried to eliminate the evidence and influence the investigating officers of the criminal case. Why was he not, then, charge-sheeted under Section 301 I.P.C. Smt. Geeta Rana was charge sheeted and ultimately she too was exonerated by learned Sessions Judge, Chamoli *vide* order dated 24.08.2021 in ST No. 02/2018, State of Uttarakhand vs. Geeta Rama (case crime no. 15/2015 under Section 306 I.P.C., PS Chamoli, District Chamoli).

5. The Bench requested learned Counsel for the petitioner to place the copy of judgement before the Tribunal. Dr. N.K. Pant has placed a copy of the same. The Bench perused the entire text of the judgement dated 24.08.2021 delivered by Sri Narendra Dutt, District and Sessions Judge, Chamoli. In 29-page judgement, there is no whisper against present claim petitioner. The Tribunal does not feel it necessary to reproduce the text of the judgement inasmuch as there is nothing against present petitioner in the text of such judgement. Had there been anything against the present petitioner, the Tribunal would have excerpted such part of judgement in this order, but since there is nothing against the petitioner, therefore, there is no need to extract any portion of such judgement.

6. It is true that there is limited scope of intervention in judicial review like this. The Hon'ble Supreme Court has laid down law in the case of *Nirmala J. Jhala vs. State of Gujarat and others*, (2013) 4 SCC 301 and *Johri Mal's case*, (1974) 4 SCC 3, that 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 interference, the Court should intervene. It is settled legal proposition that judicial review is not akin to

adjudication on merit by re-appreciating the evidence as an Appellate Authority. The only consideration 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 in writ proceedings.

7. One thing is clear that when there is no evidence, the Tribunal exercising jurisdiction in judicial review can interfere. This Tribunal is conscious of the fact that it is not sitting in appeal against the orders of two quasi-judicial authorities below, but still the fact of the matter is that when it is a case of no evidence, should the Tribunal not interfere in the orders of two quasi-judicial authorities below?

8. Nobody can be punished, even in departmental proceedings, only on the basis of conjectures and surmises. Here the show cause notice itself reveals that there is no concrete documentary evidence against the petitioner, but the show cause notice continues to say that on confidential enquiry (no report) and on the hearsay that there was involvement of the petitioner, who was head of SOG in district Chamoli in influencing the witness and eliminating the evidence. He has not been implicated under Section 301 I.P.C. Copy of the confidential report was not supplied to the petitioner. He has not been charge-sheeted with the aid of Section 120B I.P.C. The irresistible conclusion would, therefore, be that in case of no evidence, the Tribunal should interfere in the findings of learned quasi-judicial authorities. The impugned orders cannot sustain and are liable to be set aside.

9. The claim petition is allowed by setting aside the orders impugned (Annexure: A5 and Annexure: A1). In the circumstances, there shall be no order as to costs.

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

*DATE: 27<sup>th</sup> April, 2023*  
*DEHRADUN*  
*RS*