

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

CLAIM PETITION NO. 95/SB/2023

Shokendra Rana, s/o Sri Satyapal Singh, presently residing in
Thana Kotwali Parisar, Uttarkashi.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Home, Govt. of Uttarakhand.
2. Inspector General of Police, Garhwal Region, Uttarakhand.
3. Superintendent of Police, District Chamoli.

..... Respondents

Present: Sri Abhishek Chamoli, Advocate, for the Petitioner
Sri V.P. Devrani, A.P.O., for the Respondents

JUDGEMENT

Dated: 12th January, 2024

Justice U.C. Dhyani (Oral)

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

“(i) To quash and set aside Impugned Order dated 31/08/2021 of respondent no. 3 by which "Punishment of Minimum Wage For 1 Year" was awarded in the Service record of the petitioner arbitrarily and illegally had it been the impugned order was never being in existence, after calling entire record from the respondents, keeping in view of the facts highlighted in the body of the petition.

(ii) To quash and set aside impugned appellate order dated 01/02/2023 of respondent no. 2 by which Departmental Appeal of the petitioner was rejected by the respondent no. 2.

(iii) To issue and order or direction to the respondents to grant the petitioner consequential service benefits accordingly.

(iv) To issue any other order or direction which this court may deem fit and proper in the circumstances of this case in the favour of the petitioner.”

2. Petitioner Constable was given minimum pay scale for one year, as punishment under the Uttarakhand Police Act, 2007.

3. Aggrieved against the order dated 31.08.2021 of the disciplinary authority, petitioner preferred departmental appeal to the appellate authority, who dismissed such departmental appeal *vide* order dated 01.02.2023 and affirmed the order of the disciplinary authority.

4. Learned Counsel for the petitioner drew attention of the Bench towards paras no. 4.10, 4.11, 4.15, 4.16, 4.17, 4.18, 4.19, 4.22, 4.23, 4.24, 4.25 and 4.26 of the claim petition and submitted that the petitioner wants to highlight certain factual and legal pleas and file statutory revision against the impugned orders, therefore, opportunity may be granted to him to file a statutory revision.

5. Learned Counsel for the petitioner submitted that such an order can be passed by Single Bench of the Tribunal.

6. Counter affidavit has been filed Ms. Natasha Singh, Deputy Superintendent of Police, Chamoli, Uttarakhand, in which material facts contained in the claim petition have been denied on behalf of the respondents. Learned A.P.O. submitted that the permission of the Tribunal is not required for filing statutory revision. Petitioner can do it on his own.

10. Rule 23 of the Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991 (for short, 1991 Rules), as applicable to State of Uttarakhand, reads as below:

“23. Revision-(1) An officer whose appeal has rejected by any authority subordinate to the Government is entitled to submit an application for revision to the authority next in rank above by which his appeal has been rejected within the period of three months from the date rejection of appeal. On such an application the power of revision may be exercised only when in consequent of flagrant irregularity, there appears to have been material injustice or miscarriage of justice.

.....

.....

(2)

[Emphasis supplied]

11. In this context, it will be apt to reproduce order dated 24.12.2021 passed by Hon'ble High Court in WPSS No. 1451 of 2021, hereinbelow for convenience:

“As would be apparent from the scrutinization of the impugned orders, which are challenged by the petitioner in the present writ petition.

The order of punishment has been imposed upon the petitioner by the respondents authority, while exercising their powers under Uttar Pradesh Police Officers and Subordinate Rank, Rules, 1991, which has been made applicable, even after the enforcement of the Uttarakhand Police Act, 2007.

As a consequence of the set of allegations of misconduct levelled against the petitioner, by virtue of the impugned order, which has been passed while exercising the powers under Section 23 (1) (d) of the Uttarakhand Police Act, 2007, the petitioner was placed under the lowest in the cadre for a period of one year. As against the principal order of punishment passed by the Deputy Inspector General of Police, on 20.02.2021, the petitioner preferred an appeal under the Rules of 1991, which too has been dismissed.

Under the Rules of 1991, if any person is aggrieved by an appellate order, imposing the punishment for the misconduct, provided under the Rules, a provision of revision has been contemplated under Rule 23 of the Rules.

Hence, this writ petition is dismissed with the liberty left open for the petitioner to approach before the next superior authority, to the appellate authority to file a revision under Rule 23 of the Rules of 1991.”

12. The petitioner has statutory remedy to file revision under Rule 23 of the Rules of 1991, which opportunity cannot be denied to him by the Tribunal, inasmuch as, to file revision is his entitlement.

13. The claim petition thus stands disposed of, with the consent of learned Counsel for the parties, leaving it open to the petitioner to file statutory revision under Rule 23 of the Rules of 1991, as prayed for by him. Delay in filing the same is condoned in the interest of justice. No order as to costs.

14. Rival contentions are left open.

(JUSTICE U.C. DHYANI)
CHAIRMAN

DATE: 12th January, 2024
DEHRADUN
RS