

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
BENCH AT NAINITAL**

[Virtually]

**WRIT PETITION NO 979 (S/S) OF 2021
[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 99/NB/SB/2022]**

Kashmir Singh, aged about 45 years, s/o Late Sri Buddha Singh, presently posted as Senior Sub Inspector, Kotwali Mallital, District Nainital.

.....Petitioner

VS.

1. State of Uttarakhand through Secretary, Home, Govt. of Uttarakhand, Dehradun.
2. Director General of Police, Uttarakhand Police Headquarters, Dehradun
3. Inspector General of Police, Kumaon Range, Nainital.
4. Senior Superintendent of Police, District Nainital.

.....Respondents.

Present: Sri Vinay Kumar, Advocate, for the petitioner.
Sri Kishore Kumar, A.P.O., for the Respondents.

JUDGMENT

DATED: FEBRUARY 29, 2024

Justice U.C.Dhyani (Oral)

Hon'ble High Court of Uttarakhand at Nainital, passed an order, in WPSS No. 979 of 2021, on 13.09.2022, as follows:

“Petitioner is a public servant within the meaning of term, as defined under the U.P. Public Service (Tribunals) Act, 1976, as applicable in State of Uttarakhand.

Petitioner is challenging an order dated 27.03.2018, whereby minor penalty of Censure was imposed upon him. He filed Departmental

Appeal, which has been dismissed by Deputy Inspector General of Police, Kumaon, Nainital, vide order dated 15.07.2019.

Challenging these two orders, petitioner has approached this Court.

This writ petition was filed in 2021. Learned counsel for petitioner submits that since departmental proceedings were initiated against petitioner, pursuant to direction issued by Coordinate Bench of this Court, therefore, petitioner had approached Hon'ble Supreme Court by filing S.L.P. No. 42156 of 2019, which was dismissed as withdrawn with liberty to petitioner to approach the High Court. Thus, he submits that challenge by petitioner to the punishment order and the appellate order, be heard and decided by this Court.

Since petitioner has a statutory remedy of approaching the Uttarakhand Public Services Tribunal, constituted under the aforesaid Act, therefore, writ petition is dismissed on the ground of alternative remedy with a request to learned Tribunal to decide the case on merits.

Registry is directed to transmit complete record of this case to learned Tribunal, after keeping photocopy thereof on record, to be supplied by learned counsel for the petitioner, in the file.”

2. Writ Petition No. 979 (S/S) of 2021 is, accordingly, reclassified and renumbered as Claim Petition No. 99/NB/SB/2022. Since the reference in this Tribunal shall be of the writ petition filed before the Hon'ble High Court, but shall be dealt with as claim petition, therefore, the claim petition shall be referred to as 'petition' and petitioner shall be referred to as 'petitioner', in the body of the judgment.
3. Punishment order dated 27.03.2019 (Annexure: 8) passed by the disciplinary authority, whereby petitioner was awarded 'censure entry' and appellate order dated 15.07.2019 (Annexure: 9) passed by the appellate authority, are under challenge in present petition.
4. Sri Vinay Kumar Ld. Counsel for the petitioner drew attention of the Tribunal towards grounds 'A to Q', taken in the petition, to submit that the petitioner wants to file revision against the impugned orders to highlight these points before the revisional authority, therefore, liberty may be granted to the petitioner to file statutory revision. The Tribunal need not reproduce those grounds, for, they are already part of record.
5. In reply, Ld. A.P.O. submitted that permission of the Tribunal is not required for filing statutory revision. Petitioner can do it on his own. It is his entitlement.

6. 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 form 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]

7. 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.”

[Emphasis supplied]

8. The petitioner, therefore, 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.

9. The petition thus stands disposed of , 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.

10. Rival contentions are left open.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: FEBRUARY 29, 2024.
DEHRADUN

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