

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

[Virtually]

**WRIT PETITION NO 909 (S/S) OF 2021
[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 36/NB/SB/2023]**

Rakesh Giri, aged about 35 years, s/o Sri Suresh Giri, presently posted as
Constable 2013, PAC/ Jal Police, Kotwali Tanakpur, Districh Champawat.

.....Petitioner

VS.

1. State of Uttarakhand through Principal Secretary, Department of Home,
Govt. of Uttarakhand, Dehradun.
2. Director General of Police, Uttarakhand Police Headquarters, Dehradun
3. Inspector General of Police, Uttarakhand Police, Kumaon Region, Nainital.
4. Superintendent of Police, Champawat District, Champawat.

.....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. 909 of 2021, on 22.02.2023, as follows:

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

He has challenged the punishment order dated 07.10.2020 passed
by the Superintendent of Police, Champawat, as affirmed in appeal by
Deputy Inspector General of Police, Kumaon Range, Nainital. Since
petitioner has a remedy of approaching learned Tribunal under the
aforesaid Act, the writ petition is dismissed on the ground of alternative
remedy.

Registry is directed to transmit the record of this case to learned Tribunal, after keeping photocopy thereof on record, within 10 days.”

2. Writ Petition No. 909 (S/S) of 2021 is, accordingly, reclassified and renumbered as Claim Petition No. 36/NB/SB/2023. 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 07.10.2020 (Annexure: 4) passed by the disciplinary authority, whereby petitioner was awarded ‘censure entry’ and appellate order dated 05.02.2021 (Annexure: 6) 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 T’, 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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