

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

**CLAIM PETITION NO. 27/SB/2024**

Sri Yashdev Singh Rawat, aged about 55 years, s/o Shri Shiv Singh Rawat, at present working and posted on the post of Head Master, Govt *Purv Madhyamik Vidyalaya, Kathur, Vikas Khand-Kot*, District-Pauri Garhwal, Uttarakhand.

.....**Petitioner**

**vs.**

1. State of Uttarakhand through its Secretary, Education, Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Director, Primary Education, Uttarakhand, Dehradun.
3. Additional Director, Primary Education, Garhwal Region, Pauri.
4. District Education Officer, Primary Education, Pauri Garhwal.

.....**Respondents**

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

**JUDGMENT**

**DATED: APRIL 01, 2024**

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

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

*“(a) To quash the impugned punishment order dated 21.01.2016 (Annexure No. A-1) and 09.05.2023 (Annexure No. A-2) passed by the respondent no.4 and impugned appellate order dated 16.09.2021 (Annexure No. A-12) and 03.10.2023 (Annexure No. A-3) passed by the respondent no.3 with its effect and operation and with all consequential benefits.*

- (b) *To issue an order and direction to the respondents to return/ release the withheld increment and accordingly re-fix the pay of the petitioner.*
- (c) *To issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.*
- (d) *To award the cost of the claim petition to the petitioner. ”*

2. This is 3<sup>rd</sup> round of litigation between the parties. In the first round, petitioner filed Claim Petition No. 47/SB/2021, which was disposed of by the Tribunal *vide* order dated 07.06.2021, operative portion of which is as under:

“The letters dated 15.10.2020 (Annexure: A-13) and 31.03.2021 (Annexure: A-16), whereby Petitioner’s request for entertaining departmental appeal was turned down, are set aside. Delay in filing the appeal is condoned in the interest of justice. Appellate Authority is directed to decide the departmental appeal of the petitioner, against permanent stoppage of one increment, on merits, at an earliest possible, without unreasonable delay, in accordance with law.”

3. In compliance thereof, the departmental appeal was decided by the appellate authority. Aggrieved, petitioner preferred claim petition No. 100/DB/2021, which was decided by the Tribunal *vide* order dated 07.03.2023, relevant paragraphs of which are as under:

“7. The Tribunal observes that:

(i) The procedure prescribed for imposing major penalty has been properly followed in the case of the petitioner and copy of the inquiry report has been provided to him with the second show cause notice dated 31.12.2015 which has been acknowledged by the petitioner and reply to the same has also been submitted by the petitioner. The inquiry report and the order of punishment both are passed on the petitioner's admission of the short comings and apology for the same. Therefore, the Tribunal holds that there has been 'misconduct' on the part of the petitioner for which punishment has been awarded following proper procedure.

(ii) The Tribunal simultaneously observes that the punishment imposed should be proportionate to the misconduct of the charged government servant. It is notable that the completion certificate and utilization certificate have also been signed by the Junior Engineer (Civil) who was the technical officer. The petitioner can be given some relief keeping in view that he is a non-technical person and is rarely deputed for any construction work. Further there has been no embezzlement of money and no recovery has been ordered against the petitioner. Therefore, a case is made out for reviewing the quantum of punishment imposed upon the petitioner which should be done by the disciplinary authority.

8. in view of the above, the disciplinary authority (respondent no.4) is directed to review the punishment imposed upon the petitioner and

make it commensurate with the misconduct of the petitioner by passing reasoned and speaking order in this regard, within a period of 8 weeks from the date of presentation of certified copy of this order. Till the time such order is passed, the punishment imposed upon the petitioner vide order dated 21.01.2016 shall remain in abeyance.”

4. Detailed facts of the claim petition have already been mentioned by the Tribunal in its orders dated 07.06.2021 and 07.03.2023. Hence, the Tribunal does not feel it necessary to reproduce those facts again, for, they are already part of record.

5. The appellate authority thereafter passed order on 03.10.2023 (Annexure: A-3), which is under challenge in present claim petition.

6. Ld. Counsel for the petitioner submitted that the grounds, which were taken by the petitioner while filing the departmental appeal, have not been considered by the appellate authority. Ld. Counsel for the petitioner further submitted that the petitioner wants to highlight the grounds, which have been taken by the petitioner in present claim petition, before the revisional authority. He, therefore, prayed that the petitioner may be granted permission to file statutory revision and delay, if any, in filing such revision, may kindly be condoned.

7. In reply, Ld. A.P.O. submitted that permission of the Tribunal is not required, for, petitioner may file representation to the Government even without taking such permission. Ld. A.P.O. further submitted that the petitioner is entitled to file representation to the Govt. and if such representation is filed, the same may be treated as revision under Rule 13 of the 2003 Rules.

8. Rule 13 of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 (for short, Rules of 2003) reads as below:

“13. **Revision**-- Notwithstanding anything contained in these rules, the Government may of its own motion or on the representation of concerned Government Servant call for the record of any case decided by an authority subordinate to it in the exercise of any power conferred on such authority by these rules; and  
 (a) confirm, modify or reverse the order passed by such authority, or  
 (b) direct that a further inquiry be held in the case, or  
 (c) reduce or enhance the penalty imposed by the order, or  
 (d) make such other order in the case as it may deem fit.”

*[Emphasis supplied]*

9. Petitioner may file statutory revision before the revisional authority under Rule 13 of Rules of 2003, as prayed for by Ld. Counsel for the petitioner. If such revision is filed, the revisional authority is requested to decide the same in accordance with law. Delay, if any, in filing such revision is condoned, in the interest of justice.

10. The claim petition thus stands disposed of, at the admission stage. No order as to costs.

11. Rival contentions are left open.

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

*DATE: APRIL 01, 2024*  
*DEHRADUN*

*VM*