

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

(Through audio conferencing)

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

INTERIM RELIEF APPLICATION

ORDERS

[In Claim Petition No. 06/SB/2021]

Rajesh Kumar Saini **vs.** State of Uttarakhand and others

Present: Mr. Shashank Pandey, Advocate, for the petitioner.
Mr. V.P.Devrani, A.P.O., for the Respondent No.1.
Ms. Anupama Gautam, Advocate, for Respondents No. 2 & 3.

DATED: July 23, 2021

Justice U.C.Dhyani (Oral)

In present claim petition, which has been filed for quashing order dated 09.01.2014 (Annexure: A-1) and also for quashing order dated 15.09.2020 (Annexure: A-2), among others, an interim relief application has been filed to direct the respondents to forthwith stop the deduction of Rs.10,000/- from the salary of the petitioner during the pendency of the present claim petition.

2. The genesis of the present claim petition is F.I.R. dated 10.12.2013 (Annexure: A-4), which was lodged by the petitioner against unknown

thief. The facts were that, on 10.12.2013 at 13:40 hours, an unknown thief stealthily took away petitioner's bag containing Rs.1,57,410/- from Counter No.6 of Punjab National Bank, Rishikesh. The petitioner had gone to bank to deposit the Government money in the said bank.

3. After investigation, a report in the final form (FR) was filed by the Investigating Officer in Case Crime No. 375/2013 under Section 380 IPC on 22.12.2014 (Copy: Annexure: A-7). Inspector, Kotwali Rishikesh sent a letter to Executive Engineer, Electricity Distribution Division, Rishikesh on 17.08.2015 that FR has been filed in the aforesaid Case Crime No. 375/2013. The Superintending Engineer, Electricity Distribution Circle (Rural) UPCL, Dehradun, wrote a letter to Executive Engineer, Distribution Division, Rishikesh Dehradun on 15.09.2020 (Copy: Annexure- A 2), for realizing the stolen sum of Rs.1,57,410/- in the installments of Rs. 10,000/0 per month from the petitioner. The petitioner made a representation to the Executive Engineer, Electricity Distribution Division, Rishikesh on 27.09.2017 (Copy: Annexure- A 12) to stop realizing Rs.10,000/- per month from the salary of the petitioner.
4. Separate objections have been filed on the interim relief application on behalf of Respondent No.1 and Respondents No. 2 & 3.
5. Ms. Anupama Gautam, Ld. Counsel for Respondents' No. 2 & 3 submitted that, in the instant case, negligence of the petitioner is writ large on the face of it. The petitioner was entrusted a responsibility, which responsibility was not discharged by him with devotion and that is why, it is a case of clear 'misconduct' on the part of the petitioner. The petitioner has caused financial loss to the respondent department. Ld. Counsel for Respondents No. 2 & 3 further submitted that since the petitioner is negligent in discharging his duties, which is unbecoming of good conduct of an employee, therefore, it is well within the power of the department to take appropriate action against the erring employee. Negligence of the petitioner has caused loss to the Govt. (Respondent Department). As per petitioner's own admission (in F.I.R.), he left the cash unattended.
6. Ld. A.P.O. submitted that the petitioner has caused huge loss to State Exchequer and such loss is liable to be recovered from him. Sympathetic

view has been taken by the department against the petitioner for recovering Rs.1,57,410/- in monthly installments of Rs.10,000/- only.

7. There is no denying the fact that it appears to be a case of negligence on the part of the petitioner, who left the Govt. cash unattended, which was allegedly stolen away by unknown thief. Nevertheless, a show cause notice or charge sheet was required to be issued to the delinquent employee, depending upon the gravity of the misconduct, before taking a decision to punish him suitably. Admittedly, neither any show cause notice was issued to the petitioner, nor any charge sheet was served upon him, before passing the impugned order. That being so, it amounts to denial of hearing to the petitioner and is, *per se* violation of principles of natural justice. The same requires interference, at least as an interim measure. Due process of law has not been followed in the instant case.
8. Without prejudice to rival contentions at the stage of final hearing, further recovery of Rs.1,57,410/- in monthly installments of Rs.10,000/- from the petitioner is hereby stayed till further orders of the Tribunal.
9. Interim relief application and objections thereon are, accordingly, disposed of.

RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JULY 23, 2021
DEHRADUN

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