

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

Through audio conferencing

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**CLAIM PETITION NO.04/NB/SB/2020**

Puran Singh Bhandari, aged about 54 years, s/o Sri Ram Singh Bhandari, presently posted as Plan Clerk (Authority Assistant) District Level Development Authority, Prithoragarh.

.....**Petitioner**

**vs.**

1. State of Uttarakhand through its Secretary, Housing, Dehradun.
2. Commissioner, Kumaon Division, Nainital.
3. District Magistrate, Pithoragarh/Chairman District Level Development Authority, Pithoragarh.
4. Additional District Magistrate, Pithoragarh/Secretary, District Level Development Authority, Pithoragarh.

.....**Respondents.**

Present: Sri I.P. Gairola, Advocate, for the petitioner.

Sri Kishor Kumar, A.P.O., for the Respondents.

**JUDGMENT**

**DATED: OCTOBER 22, 2021**

**Rajeev Gupta, Vice Chairman (A) (Oral)**

Brief facts of the present claim petition are that the Annual Confidential Report (ACR) of the petitioner for the year 2017-18 was recorded by the Additional District Magistrate (ADM), Pithoragarh (Respondent No. 4) as Reporting/Reviewing Officer, placing the petitioner in 'Very Good' category, while District Magistrate (D.M.), Pithoragarh (Respondent No. 3), as Accepting Officer, has placed the petitioner in adverse category, stating that improvement in his work is required. No reason has been given by the Respondent No. 3 for reversing the comments of the Reporting Officer. The petitioner has appealed against the impugned

order of adverse entry to the Divisional Commissioner (Respondent no. 2) who *vide* his judgment and order (Annexure: A2) has rejected the appeal. Hence, this Claim Petition has been filed seeking the following reliefs:

- I. Quashing of the order dated 23.06.2018 by which the respondent no. 3 has issued adverse entry in the confidential report of the claim petitioner and further the order dated 05.09.2019 by which the respondent no. 2 has rejected the representation filed by the claim petitioner on 28.06.2018.*
- II. Issue an order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case may kindly be passed.*
- III. Award the cost of the petition."*

2. We have heard learned Counsel for the parties and perused the record.

3. The Commissioner has *inter-alia* observed in his order (Annexure: A2) that the ACR of the petitioner, prior to the date of constitution of the District Level Authority which is 13.11.2017, should have been written by the Sub Divisional Magistrate (SDM), as his Reporting Officer, as before this date, petitioner was working in the Regulated Area while the ADM has recorded the entry for the entire year, which is not acceptable. The petitioner was appointed in the Regulated Area, Pithoragarh as Junior Clerk *vide* order dated 17.05.2014. As Junior Clerk of the Regulated Area, the petitioner's ACR upto 12.11.2017 should have been recorded by the concerned Prescribed Authority/SDM. This observation of the Commissioner is based on the report received from the District Magistrate, Pithoragarh on the appeal of the petitioner.

4. This Tribunal *vide* its order dated 27.07.2021 asked learned A.P.O. to submit the relevant order which supports the fact stated by the D.M., Pithoragarh that the SDM was functioning as Secretary of Authority from April 2017 till November 2017. Subsequently, learned A.P.O. has produced an order dated 13.07.2017 of the District Magistrate/Vice Chairman, Local Development Authority, Pithoragarh which states that the ADM/Secretary, Local Development Authority, Pithoragarh is authorized to bear all the

responsibilities of the earlier Regulated Area, Pithoragarh with immediate effect. However, the dates are different; as per the District Magistrate/Vice Chairman, Development Authority's order dated 13.07.2017, the ADM has been directed to undertake the work of the Regulated Area with immediate effect, while according to Annexure: A2, SDM was the Reporting Authority of the petitioner till 12.11.2017.

It is clear from the District Magistrate/Vice Chairman, Development Authority's order dated 13.07.2017 that the ADM/Secretary, Local Development Authority has been authorized to look after the work and responsibility of the Regulated Area from 13<sup>th</sup> July 2017 onwards only. Learned Counsel for the petitioner and learned A.P.O. agree that prior to this date, the petitioner was working in the Regulated Area where his Reporting Officer was the SDM and after this date, he started working in the Development Authority where his Reporting Officer was ADM. This is also in consonance with the designation of the name of the post of petitioner, which is written as Plan Clerk (Authority Assistant) in the impugned ACR. Therefore, the ADM was authorized to record his ACR for the period from 13.07.2017 to 31.03.2018 only of the year 2017-18 and the ACR of the petitioner for the period from 01.04.2017 to 12.07.2017 (which is more than three months) should have been initiated by SDM as Reporting Officer.

We observe that since the petitioner's Reporting Officer for these two periods *i.e.* 01.04.2017 to 12.07.2017 and from 13.07.2017 to 31.03.2018 are different, the ACR of the petitioner should have been separately recorded for these two periods. It is also not clear that when the Chairman of the Authority was the Commissioner, how the ADM gave his remarks as Reporting/Reviewing Officer. It could also be possible that the Reporting Officer would have been the ADM/Secretary of the Authority, Reviewing Officer as the District Magistrate/Vice Chairman of the Authority and Accepting Officer as the Commissioner/Chairman of the Authority. The prescription of Reporting, Reviewing and Accepting Officers for the employees of the Authority might have been done *vide* some Govt. Order or

orders of the Authority which have not been produced before us but it is common understanding that the Chairman of the Authority is normally the Accepting Authority where the Secretary is the Reporting Authority unless it is prescribed otherwise.

In view of the above, we deem it proper to quash the impugned adverse entry (Annexure: A1) and direct the ACR of the petitioner for the year 2017-18 to be written separately for the period 01.04.2017 to 12.07.2017 and from 13.07.2017 to 31.03.2018 by respective Reporting/ Reviewing/Accepting Officers. It is also observed that for any adverse remarks given at any level, natural justice demands that suitable grounds of the same should be indicated. The relevant G.Os. in this regard may also be complied with.

Order accordingly. No order as to costs.

**(RAJEEV GUPTA)**  
VICE CHAIRMAN (A)

*DATE: OCTOBER 22, 2021.*  
*DEHRADUN*  
KNP

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