

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

Present: Sri V. K. Maheshwari

----- Vice Chairman (J)

&

Sri U.D. Chaube

----- Member (A)

CLAIM PETITION NO. 07/N.B./2013

Constable No. 713 C.P. Deepak Singh Mehra, S/o Late Shri Harak Singh, Presently posted at Police Control Room, Haldwani, District Nainital.

.....Petitioner

VERSUS

1. State of Uttarkahand through Secretary Home, Secretariat, Govt. of Uttarakhand, Dehradun.
2. Additional Director General of Police (Administration),
Police Head Quarters, Dehradun,
3. Deputy Inspector General of Police, Nainital Range, Nainital,
4. Senior Superintendent of Police, Nainital

.....Respondents

Present: Sri P.C. Bisht, Advocate for the petitioner.
Sri V.P. Devrani, A.P.O for the respondents.

JUDGMENT

DATE: March 13, 2014

DELIVERED BY SRI V.K. MAHESHWARI, VICE CHAIRMAN (J)

The case in hand reveals the apathy of senior police Officers towards their juniors. In the present case, the petitioner should have been appreciated for discharging duty with sincerity, but he had to suffer a lot and lastly got punishment of withholding of one increment for a period of one year. Departmental appeal and revision were also in vein; hence the petitioner approached this Tribunal by way of the present petition.

2. The facts in brief are that while posted as Constable at Police Station Kotwali, Haldwani (Nainital) the petitioner along with one Sri Puran Chandra, was deputed for patrolling in the area of Mangal Parao etc. on the night of 27.6.2010. While patrolling, they spotted a girl standing with two boys near Sindhi Chauraha in suspicious circumstances on a motorcycle at mid night i.e. about 12- 1.00 A.M. The petitioner asked for their identity and asked them to call their family members so that they may be sent back home safely, but suddenly the girl fled away from the spot taking advantage of the crowd gathered there as cinema show in the near by theatre was just over. However, the family members of these two boys had arrived and matter was subsided. The petitioner was shocked to know that after two days of this incident, suddenly, a case of corruption and criminal intimidation under Section 7/13 Prevention of Corruption Act, 1988

and Section 506/323 I.P.C. was registered against him and investigation was commenced. Petitioner was also placed under suspension. After investigation, no allegation was proved and consequently a final report was submitted in the case which was accepted by the Court. But departmental enquiry was initiated against the petitioner and after the enquiry impugned order of punishment was passed against the petitioner without any basis.

3. The petitioner has challenged the impugned order of punishment on the following grounds:-

- (a). that the petitioner was simply discharging his duties with devotion and dedication, which was included to ask for the identity of suspected persons, which was exactly done by the petitioner and there was no question of corruption of any kind, but the minor and insignificant incident of simple interrogation of suspected persons was fuelled by media and the petitioner was falsely implicated in the case of corruption and criminal intimidation on false and baseless allegations of illegally detaining and holding a girl and two other persons. These allegations were not proved and final report was submitted in the matter.
- (b) That after the matter was closed by final report; there was no occasion to initiate the departmental proceedings.
- (c) That imposing the punishment on such false and fictitious ground cannot be sustained in the eye of law.

4. Therefore, the petitioner has requested for quashing the impugned order of punishment as well as the orders passed on appeal and revision.

5. Petition has been opposed on behalf of the respondents and it has been stated that the petitioner had illegally detained three persons and no information was sent to the police station. In fact, the petitioner should have brought the girl and two persons accompanying her to the Police Station and should also have informed the senior police officers. But the petitioner neither brought these persons to the Police Station nor informed the senior police officers about this incident. The petitioner had released two persons on his own discretion. This act of the petitioner was not proper. The image of the police was damaged by the act of the petitioner. Therefore, the impugned order of punishment is justified. Thus, there is no force in this petition and thus the petition is devoid of merit and liable to be dismissed. However, it was admitted that a girl was standing on road with two persons, and on questioning by the petitioner, the girl had fled away from the spot, taking the advantage of the crowd.

6. Rejoinder affidavit has also been filed on behalf of the petitioner and facts stated in the claim petition have been reiterated.

7. We have heard Mr. P.C. Bisht, learned counsel for the petitioner and Mr. V.P. Devrani, A.P.O. for the respondents and perused the evidence on record.

8. It is admitted by both the parties that while patrolling, the petitioner had noticed the two boys along with a girl on a motorcycle in suspicious circumstances at mid night. It is further admitted that the petitioner had asked for their identity and asked them to call their family members, but the girl ran away from the spot taking the advantage of crowd. The petitioner had released the other two persons after arrival of their family members and the matter came to end. After two or three days, suddenly a case of corruption and criminal intimidation was registered against the petitioner at the Police Station Kotwali, Haldwani. It is further admitted that the criminal case was closed by the final report which was accepted by the court also. Even then, the departmental proceeding was initiated and impugned order of punishment was passed. The only ground of the departmental enquiry was that the petitioner had not given any intimation to the police station and he should not have released the two persons detained by him rather he should have taken them to police station.

9. The question is as to whether these were the valid grounds for initiation of departmental proceedings. The above fact reveals that at the time of patrolling the petitioner had simply interrogated the three persons i.e. two boys and one girl found standing on the road in suspicious circumstances at mid night. In fact, interrogating such persons is the basic function of patrolling. We failed to understand what the fault of the petitioner was. None of them was detained or taken into custody. Simply that the family members of these persons

were called at the spot, reveals the bonafide of the petitioner. There appears no fault on his part. As no person was detained, there was no necessity to take them to the police station or to give intimation to the police station or any higher officer. The petitioner was expected to interrogate the suspicious persons during patrolling. The petitioner did not misbehave with any of them; he simply asked them to call their family members. There appears nothing wrong in this act of the petitioner. The act of the girl of fleeing from the spot itself reveals the intention of these persons. Apart from these facts, the affidavit given during investigation by one of the persons named Mukul Singh reveals the strange facts which are narrated below:-

" 3. यह कि दिनांक 27.06.2010 को शपथकर्ता के घर पर मेरी बहन की शादी थी। रात्रि लगभग 12-1 बजे पीलीकोठी में रहने वाली मनीषा जन्तवाल का फोन आया कि मैं परेशान हूँ आप मेरी मदद कर दो तब मैंने उससे कहा तुझे इतनी रात को क्या मदद चाहिए इस पर उसने कहा कि मुझे कुछ पैसों की जरूरत है मैं यहाँ से कहीं दूर जाना चाहती हूँ। इस पर मैंने फोन काट दिया क्योंकि मैं शादी में काफी व्यस्त था।

4. यह कि 10-15 मिनट बाद उसका फिर फोन आया कि जल्दी आओं आप मुझे यहाँ आकर मेरे घर तक छोड़ दो इस पर मैंने अपने दोस्त मधुकर सिंह पुत्र बची सिंह निवासी-बच्ची आटा चक्की, गैस गोदाम रोड, कुसुमखेड़ा, हल्द्वानी को बताया और हम दोनों अपनी बाईक से उसके बताये स्थान लक्ष्मी टॉकीज के पास पहुँचे तो वहाँ वहाँ लड़की खड़ी थी। हम लोग उससे बातचीत कर रहे थे इसी दौरान वहाँ तीन पुलिस वाले आ गये और पूछताछ करने लगे। इस पर जिसको मेहरा कह रहे थे एक दम डॉट-फटकार करने लगा और उत्तेजित हो गया और कहने लगा इसके साथ क्या कर रहे हो, इस पर हम लोगों की आपस में कहा-सुनी हो गयी इसी दौरान लक्ष्मी पिक्चर हॉल से पिक्चर छूट गयी भीड़ का फायदा देख तथा हमारी बातों में व्यस्तता का फायदा उठाकर वह लड़की वहाँ

से फरार हो गई। पुलिस वालों ने कहा कि जब तक तुम्हारे घर से कोई नहीं आ जाता तुम कहीं नहीं जाओगे।

5. यह कि शपथकर्ता ने डर व बदनामी की वजह से अपने मोबाईल से अपने जीजा को फोन किया कि पुलिस वालों से हमारी कहासुनी हो गयी है आप तुरन्त लक्ष्मी टॉकिज के पास आ जाओ इस पर मेरे जीजा भूपेन्द्र सिंह पुत्र श्री प्रेम सिंह तथा नरेन्द्र सिंह पुत्र चतुर सिंह वहाँ पर आ गये, इन पुलिस वालों ने जीजा जी से बात की और हम दोनों को समझाकर जीजा जी के साथ घर भेज दिया।”

The above statement makes it clear that all the three persons were not there in normal circumstances. Thus the totality of the above facts and circumstances reveals that the petitioner did not do any thing wrong or unlawful. He simply performed his duty with sincerity; even then awarding punishment to him has the demoralizing effect upon the sincere police officials. Such kind of action can not be sustained and is liable to be set aside and petition deserves to be allowed. Before parting with this judgment, we would like to observe that the Police force is meant for the safety of the society and it is the pious obligation of every responsible person to keep the morale of the police force high obviously for the right actions.

10. On the basis of above discussion, petition deserves to be allowed and the impugned orders are liable to be quashed.

ORDER

Petition is allowed. The impugned order dated 18.09.2012 passed by the Senior Superintendent of Police, Nainital and the orders

passed on appeal and revision are hereby set-aside. The petitioner will be entitled for arrears if any. No order as to costs.

Sd/-

U.D. CHAUBE
MEMBER (A)

Sd/-

V.K.MAHESHWARI
VICE CHAIRMAN (J)

DATE: MARCH 13, 2014

B.K.