

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

Present: Hon'ble Mr. Rajeev Gupta

----- Vice Chairman (A)

**Claim Petition No. 81/SB/2020**

Mahendra Singh, s/o Sri Khusal Singh Negi, aged about 34 years, presently working and posted on the post of Constable No. 1520 Civil Police at Chowki, Harrawala, P.S. Doiwala, District Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Home, Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Inspector General of Police, Garhwal Region, Uttarakhand, Dehradun.
3. Senior Superintendent of Police, District Dehradun.

..... Respondents

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

**WITH**

**Claim Petition No. 82/SB/2020**

Surendra Singh, s/o Sri Ilam Singh, aged about 38 years, presently working and posted on the post of Constable No. 884 Civil Police at Chowki, Harrawala, P.S. Doiwala, District Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Home, Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Inspector General of Police, Garhwal Region, Uttarakhand, Dehradun.
3. Senior Superintendent of Police, District Dehradun.

..... Respondents

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

### Judgement

Dated: 08<sup>th</sup> August, 2022

These claim petitions are similar and related to common incident, hence, they are being taken up together. Claim Petition No. 81/SB/2020, Mahendra Singh vs. State of Uttarakhand, shall be the leading case.

2. Brief facts according to the claim petitions are as follows:

2.1 In September, 2017, when the petitioners were posted at Chowki Triveni Ghat, Thana Rishikesh, District Dehradun, some ladies of Mayakund *jhuggi jhoparhi* came to the Chowki in respect of some dispute. One of the ladies informed the petitioner that near a *jhuggi*, someone has hidden *ganja* in the bundle of woods. On this information, both the petitioners of these claim petitions reached the spot, where about 1 kg *ganja* was recovered in white packet from the bundle of woods. Both the constables enquired about the *ganja* from the person present there but no one gave any information about the source of *ganja* nor agreed to become a witness in the matter. Thereafter, the petitioner informed the Chowki Incharge on phone, who directed the petitioners to find out the person who had placed the *ganja* and if no such person is found then to come to Chowki with *ganja*. The petitioners tried to find out the person but could not find him. Thereafter, they came to the Chowki and handed over the *ganja* to the Chowki Incharge. This recovered *ganja* was deposited at Thana on 04.01.2018 according to *Rapat* no. 53 time 18:35.

2.2 Preliminary enquiry was conducted in respect of recovery of 5 kg *ganja* and illicit liquor in the Thana Rishikesh region for the involvement of Constable Vipin and Constable Rajendra and not against the petitioners, but the enquiry officer alleged the carelessness of the petitioners for not endorsing the recovering goods in the General Diary (G.D.)/ records of the Chowki. Show cause notices dated 12.04.2018 were issued to the petitioners leveling the charge that they did not make any entry in any record in the

Chowki about the *ganja* so that it was not clear as to how much *ganja* was recovered from the site. According to Rules, the petitioners should have made the entry in the G.D. at that time itself after recording in writing about the goods recovered at site and getting the same signed by the persons present at the site and not doing the same shows gross negligence and indifference towards duties and conduct.

2.3 The petitioners submitted their replies to the show cause notice. Without considering the replies of the petitioners, the respondent no. 3. Senior Superintendent of Police (District Dehradun), vide impugned orders dated 19.06.2018, punished the petitioners with the punishment of Censure entry for the year 2018. Against the punishment orders, the appeals preferred by the petitioners to respondent no. 2 (Inspector General of Police, Garhwal Region, Uttarakhand, Dehradun) were rejected by the appellate authority vide impugned orders dated 02.08.2019/ 07.08.2019.

2.4 The reliefs sought in the claim petitions are to quash the impugned punishment orders and impugned appellate orders and allow the petitions with all consequential benefits; to issue any other suitable order or direction, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and to award the cost of the petitions.

3. Counter affidavits have been filed on behalf of the respondents mainly stating that the Deputy Inspector General of Police, Garhwal Range, vide his letter dated 02/03-11-2017, had written to the Senior Superintendent of Police, Dehradun informing that from confidential sources, it had come to notice that in Mayakund 05 kg *ganja* was caught but was shown as only 750 grams in the Thana and transaction of Rs. 50,000/- took place at the Thana and further in the area of Thana Rishikesh, illicit liquor was caught but the case was hushed up after taking Rs. 80,000/- and directing the matter to be enquired by Additional S.P. Rural, Dehradun and on the basis of the same, to take strong punitive action against the guilty. In compliance of this letter, the enquiry was entrusted to Superintendent of Police (Rural), Dehradun, who after enquiry, submitted the enquiry report dated 22.12.2017 in which the petitioners and the Chowki Incharge were

found negligent in not entering the recovered *ganja* in the records of Chowki Triveni Ghat. The counter affidavit further states that show cause notices were issued to the petitioners vide letters dated 12.04.2018 under Sub-Rule (iv) of Rule 4(1)(b) of the Uttaranchal [U.P. Police Officers of Subordinate Ranks (Punishment & Appeal) Rules, 1991] Adaptation and Modification order, 2002 (hereinafter referred to as 'Rules of 1991') proposing the punishment of Censure entry for the year 2018. After receiving their explanations, the disciplinary authority thoroughly studied and considered the same and the available documentary evidences on the file and finding the explanations of the petitioners not satisfactory, punished them with Censure entry vide orders dated 19.06.2018. The appeals presented by the petitioners before the appellate authority were also dismissed after duly considering the points raised in the appeals and the evidence available in the punishment files.

3.1 The counter affidavits defend the punishment and appellate orders and request for the dismissal of the claim petitions.

4. Rejoinders have been filed on behalf of the petitioners mainly reiterating the contents of the claim petition and further stating that:

4.1 The preliminary enquiry officer found the guilt of the petitioners for not endorsing the recovered *ganja* in the G.D. of Thana. In preliminary enquiry, the Chowki Incharge S.I. Sri Rajvar Singh Rana made the statement that Constable Mahendra and Surendra were asked by him to bring the said *ganja* to the Chowki, which was around a kilo. Due to not knowing whose *ganja* it was, it was not endorsed in the records/ G.D. From the statement of the Chowki Incharge it is clear that he had not ordered to the G.D. writer to endorse the recovered *ganja* in G.D. The petitioners were not competent to do so. The petitioners handed over the said *ganja* to the Incharge of Chowki and it was duty of the Chowki Incharge to take further action/ proceedings in respect of said *ganja*. Therefore, the charge of not endorsing the said *ganja* in the records of Chowki is not made out against the petitioners. The preliminary enquiry officer wrongly made the petitioners responsible for the charge of not endorsing the said *ganja* in the records of Chowki.

4.2 In para 480 of police regulations, it is provided that “Punishments will be inflicted only when they are absolutely necessary in the interests of discipline. Before inflicting or proposing a punishment, a Superintendent, Assistant or Dy. Superintendent or Reserve Inspector must consider whether a reprimand will not suffice.”

5. There was some delay in filing of the claim petitions, which have been filed on 18.09.2020. The claim petitions were admitted and point of delay was left open to be decided at the time of final hearing. The Tribunal observes that the delay in filing the claim petitions is condonable in view of the decision rendered by Hon’ble Apex Court in *Suo Motu* Writ Petition (Civil) No. 03 of 2020 and the delay is hereby condoned.

6. I have heard learned Counsel for the parties and perused the record.

7. The Tribunal observes that disciplinary authority has duly considered the explanations/ replies to the show cause notices of the petitioners and after establishing the guilt of the petitioners, has awarded the impugned Censure entries to them, vide his orders dated 19.06.2018. The appellate authority has also dealt with the various points raised in the appeal and has accordingly upheld the punishment orders. However, the quantum of punishment deserves reconsideration.

8. The Tribunal finds force in the contention of learned Counsel for the petitioners that after the recovered *ganja* was brought to the Chowki on the instructions of the Chowki Incharge, it was primarily the duty of the Chowki Incharge to enter the same in the records. In his statement before the preliminary enquiry officer, the Chowki Incharge admitted that the entry was not made because it was not found as to whom the *ganja* belongs and that he also tried to find out confidentially but could not find who had placed the *ganja* there and to whom it belongs. The petitioners have also stated in their explanations to the show cause notices that after handing over the recovered *ganja* to the Chowki Incharge, they had gone on duty in the Chowki area and they came to know only on 04.01.2018, when the entry of

the recovered *ganja* was made, that no entry about the same had been made earlier.

9. While the above does not exonerate the petitioners completely, it certainly reduces their guilt/ fault as the main guilt/ fault of not recording the recovered *ganja* in the Chowki records is of the Chowki Incharge. In such circumstances, the case for reduction of punishment awarded to the petitioners deserves consideration.

10. In view of the above, the respondents are directed to consider the case of the petitioners for awarding them petty punishment as mentioned in the Sub-Rule (2) and (3) of Rule 4 of the Rules of 1991 in place of punishment of Censure. Till fresh decision about punishment is taken after such consideration, impugned punishment orders and appellate orders shall remain in abeyance.

11. The claim petitions are disposed of as above. No order as to costs.

12. A copy of this order may also be placed in the file of Claim Petition No. 82/SB/2020, Surendra Singh vs. State of Uttarakhand and others.

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

*DATE: 08<sup>th</sup> August, 2022*  
*DEHRADUN*  
*RS*