

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

Present: Hon'ble Mr. Rajendra Singh
..... Vice-Chairman (J)
&
Hon'ble Mr. Rajeev Gupta
..... Vice-Chairman (A)

CLAIM PETITION NO. 18/NB/DB/2021

Vikram Singh Rawat, aged about 32 years, s/o Late Sri Pooran Singh Rawat, presently serving as Senior Assistant, Tehsil Bangapani, District Pithoragarh.

.....Petitioner

Versus

1. State of Uttarakhand through Secretary, Revenue Department, Government of Uttarakhand, Dehradun.
2. Commissioner, Kumaon Division, Nainital.
3. District Magistrate, Pithoragarh.
4. Tehsildar, Bangapani, District Pithoragarh.

..... Respondents

Present: Sri Bhagwat Mehra, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

JUDGMENT

DATED: 28th July, 2022

Mr. Rajeev Gupta (Oral)

This claim petition has been filed seeking following reliefs:-

I. To set-aside the impugned punishment order dated 28.08.2020 passed by the Respondent No. 3 (Annexure No. 1 to Compilation-I).

II. To set-aside the impugned appellate order dated 23.01.2021 passed by the Respondent No. 2 (Annexure No. 2 to Compilation-I)

III. To direct the Respondents, particularly Respondent No. 3 to forthwith reinstate the petitioner on the post of Senior Assistant in Collectorate, Pithoragarh alongwith full back wages of the said post.

IV. To direct the Respondents, particularly Respondent No. 3 to grant all consequential benefits to the petitioner.

V. To pass any other suitable order as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

VI. To allow the claim petition with cost."

2. During the course of arguments, the learned Counsel for the petitioner confined his argument to the extent that the disciplinary authority (Respondent No.

3) did not apply his mind to the reply/representation of the petitioner dated 15.07.2020 against the inquiry report and has passed the impugned order dated 28.08.2020 (**Annexure No. 1** to the claim petition) without giving any reason for disagreeing with the averments made in the reply/representation of the petitioner. The points raised in the reply/representation of the petitioner have not at all been considered by disciplinary authority (Respondent No. 3). Appellate authority has not also considered this fact that disciplinary authority has not applied his mind to the reply/representation of the petitioner and in the interest of justice the impugned punishment order dated 28.08.2020 and the appellate order dated 23.01.2021 (Annexure Nos. 1 & 2 to the claim petition) need to be set-aside.

3. Learned A.P.O. states that the impugned orders have been properly passed after following the procedure prescribed for imposing major punishment.

4. The Tribunal observes that disciplinary authority in the impugned order dated 28.08.2020 has simply stated that he has studied the documents available in the file and inquiry report presented by inquiry officer and the reply/representation and statements of the petitioner and from the perusal of the same the action of the petitioner comes under major penalty according to the provisions of Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003.

5. The disciplinary authority has not given any reason for disagreeing with the averments made in the reply/representation of the petitioner and the impugned order cannot be stated to be a speaking order by any stretch of imagination. Therefore, the Tribunal needs to direct the disciplinary authority (Respondent No. 3) to consider all the averments made by the petitioner in his reply/representation and pass a fresh reasoned and speaking order in accordance with law.

6. The impugned punishment order dated 28.08.2020 (Annexure No. 1 to the claim petition) and consequently appellate order dated 23.01.2021 (Annexure No. 2 to the claim petition) are hereby set aside and the matter is remitted to the disciplinary authority for action as above.

7. The claim petition is disposed of as above. No orders as to costs.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

DATED: 28th July, 2022
NAINITAL