

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

Present: Hon'ble Mr. Rajendra Singh

-----Vice Chairman (J)

**CLAIM PETITION NO. 17/NB/SB/2021**

Surendra Singh, aged about 37 years, s/o Sri Jay Ram, r/o Village Pandri, P.O. Sitarganj, District U.S. Nagar, Presently posted as Constable Civil Police Number 890, Police Line, District Nainital.

.....Petitioner

**vs.**

1. State of Uttarakhand through Principal Secretary, Home Department, Dehradun.
2. Deputy Inspector General of Police, Kumaon Region, Nainital.
3. Senior Superintendent of Police, Nainital, District Nainital.

.....Respondents.

Present: Sri N.K.Papnoi, Advocate for the Petitioner.  
Sri Kishore Kumar, A.P.O., for the Respondents.

**JUDGMENT**

**DATED: OCTOBER 12, 2022**

The petitioner has filed this claim petition for seeking the following reliefs:

*“(i) To quash the impugned orders dated 29.08.2020 passed by the respondent no. 3 by which the respondent no. 3 awarded the punishment of ‘censure’ and impugned orders dated 23.11.2020 passed by respondent no.2 rejected the statutory appeal filed by the applicant and the enquiry report dated 08.06.2020 along with its effect and operation and after calling the entire record.*

*(ii) To issue order or direction to expunge the adverse entry censure recorded in the service record of the applicant and grant all the service benefits or pass any other order direction which this Hon'ble Court may deem fit and proper under the facts and circumstances stated in the body of the claim petition.*

*(iii) To issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case. "*

2. Brief facts giving rise to the petition are as follows:

2.1 The petitioner was inducted in service as Constable by due process of law on 14.12.2007 against the substantive vacancy. He discharged his duties with utmost satisfaction and without any complaint from any side. Presently, the petitioner is discharging his duties as Constable Civil Police Number 890, Police Line, District- Nainital.

2.2 Since the date of initial appointment, the petitioner has never been charge sheeted and even not a single adverse entry or warning has ever been given to him. In fact, the petitioner performed his duties and liabilities to the satisfaction of his superiors and his performance was always appreciated.

2.3 On 25 April 2020, when the petitioner was posted as Constable Civil Police Number-104 at Banbhulpura Police Station, Haldwani along with another Police Constable number 850 Gaud Viswas was assigned the duty of taking care custody of one accused, Salim alias Soyab, who was an accused in F.I.R. No. 115/20, under Section 380/457 IPC. The accused was isolated/admitted in ward-B of Sushila Tiwari Hospital due to Covid-19 symptoms managed to escape from the isolation ward of the Hospital. In this regard, an F.I.R. lodged by the petitioner against the accused on 25.04.2020. The petitioner was suspended on 26.04.2020 with immediate effect and attached to Reserved Police Line Nainital. Vide order dated 02.05.2020, the services of the petitioner were restored without giving any effect to the proceedings of preliminary enquiry initiated against the petitioner.

2.4 A preliminary enquiry was initiated against the petitioner and Mr. Gaur Vishwas. The enquiry officer found both the persons guilty of laxity and negligence in duties. Thereafter, a show cause notice was served upon the petitioner on 20.06.2020. The petitioner replied to the show cause notice on

08.07.2020 denying all the allegations levelled against him and requested the respondent No. 3 for cancelling the show cause notice given to him.

2.5 It is submitted that the petitioner was always vigil and honest towards his duties and responsibilities, but on 25.04.2020 when he was assigned duty to take care custody of accused Salim alias Soyab and Amir Husain, who were isolated/admitted in ward-B of Sushila Tiwari Hospital due to Covid-19 symptoms. The Hospital Administration as well as Government had implemented the strict restrictions and no outsiders were permitted in isolation ward, where accused were admitted. The petitioner was giving his duties at the gate of isolation center. The accused Salim escaped taking advantage of the Covid-19 pandemic guidelines and restrictions.

2.6 The respondent no. 3 passed the impugned order dated 29.08.2020 by which the punishment of "Censure entry" awarded to the petitioner relying on the preliminary enquiry report. The petitioner made statutory appeal against the punishment order passed by respondent No. 3, within prescribed period and requested to cancel/quash punishment order, but the respondent No. 2 rejected the appeal filed by the petitioner against the punishment order on 23.11.2020 in a cursory manner, without applying his mind. Hence this petition.

3. The respondents have filed Counter Affidavit and have stated that the petitioner along with another Police Constable number 850 Gaur Viswas was assigned duty of taking care custody of one accused, Salim alias Soyab, an accused in F.I.R. No. 115/20, under Section 380/457 IPC. On 25.4.2020, the accused was admitted in the isolation ward of Sushila Tiwari Hospital, Haldwani due to Covid-19 symptoms. During monitoring duty of petitioner, Surendra Singh and other Police Constable no. 850 Gaur Vishwas, the accused cut the handcuff rope between 10:00 am to 11:00 and managed to escape with handcuff attached. An FIR No. 208/20 under Section 224 IPC dated 25-4-2020 was registered in Kotwali Haldwani and in the preliminary inquiry, the petitioner was found guilty of laxity and negligence in monitoring duty of the accused. The petitioner was suspended on 26.04.2020 with

immediate effect. The inquiry against the petitioner was conducted. The petitioner was given a show cause notice under Rule 14(2) of the Rules of 1991. The petitioner replied to the show cause notice and his reply was duly considered by the disciplinary authority. His reply/explanation was found unsatisfactory by the disciplinary authority. The disciplinary authority passed the order awarding minor penalty of 'censure'. The petitioner has been provided due opportunity to defend himself adhering to Rules and the principles of natural justice. The contention of the respondents is that the Rule 14(2) of the Rules of 1991 has been fully complied with. The appeal of the petitioner was also duly considered and rejected the same as per the Rules. The petition is, therefore, devoid of merit and liable to be dismissed.

4. The petitioner has submitted rejoinder affidavit denying the averments of the Counter Affidavit and reiterated the facts mentioned in the petition.

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

6. It is an admitted fact that on 25 April 2020, petitioner along with another Police Constable number 850 Gaur Vishwas was assigned duty of taking care custody of one accused, Salim alias Soyab, an accused in F.I.R. No. 115/20, under Section 380/457 IPC. On 25.4.2020, the accused was admitted in the isolation ward of Sushila Tiwari Hospital, due to Covid-19 symptoms. During monitoring duty of petitioner, Surendra Singh and other Police Constable no. 850 Gaur Vishwas, the accused cut the handcuff rope between 10:00 am to 11:00 and managed to escape with handcuff attached. An FIR No. 208/20 under Section 224 IPC dated 25.4.2020 was registered in Kotwali Haldwani. In the preliminary inquiry, the petitioner was found guilty of laxity and negligence in monitoring duty of the accused. The petitioner was suspended on 26.04.2020 with immediate effect and attached to Reserved Police Line Nainital. A preliminary enquiry was initiated against the petitioner and Mr. Gaur Vishwas. The enquiry officer found both the persons guilty of laxity and negligent in duties. Thereafter, a show cause notice was served

upon the petitioner on 20.06.2020. The petitioner replied to the show cause notice on 08.07.2020.

7. Learned Counsel for the petitioner has argued that the disciplinary authority in the show cause notice mentioned the punishment, which shows his pre-mind set condition that he has made his mind to award the punishment of "censure" to the petitioner. Thus, the reply of the petitioner is a futile exercise. Thereafter without holding any proper enquiry and prescribed procedure for departmental enquiry and following of law, the respondent No. 3 awarded punishment of "Censure entry". The entire proceedings completed without following the proper procedure as such *void ab-initio*. It has been argued on behalf of the respondents that accused admitted in the isolation ward of Sushila Tiwari Hospital, cut the handcuff rope between 10 am to 11 am and managed to escape during the monitoring duty of the petitioner another Constable Gaur Vishwas and an FIR no. 208/20 under Section 224 IPC was registered on 25.04.2020. The petitioner was also found guilty in the preliminary inquiry. As a result, the petitioner was issued a show cause notice on 20.06.2020 in order to give him opportunity of hearing and to present his case. The petitioner replied to the show cause notice and finding the reply/representation submitted by the petitioner forceless and unsatisfactory, the punishing authority proposing the punishment in the show cause notice, passed the impugned orders in which there is no irregularity.

8. It would be appropriate to look at the rule position related to the minor punishment in Police Department. Relevant rules of the Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991 are reproduced below:-

*"4. Punishment (1)The following punishments may, for good and sufficient reasons and as hereinafter provided, be imposed upon a Police Officer, namely:-*  
*(a) Major Penalties :-*  
*(i) Dismissal from service,*  
*(ii) Removal from service.*  
*(iii) Reduction in rank including reduction to a lower scale or to a lower stage in a time-scale,*  
*(b) Minor Penalties :-*

- (i) *With-holding of promotion.*
- (ii) *Fine not exceeding one month's pay.*
- (iii) *With-holding of increment, including stoppage at an efficiency bar.*
- (iv) *Censure.*
- (2).....
- (3).....”
- “5. *Procedure for award of punishment-*
- (1) *The cases in which major punishments enumerated in Clause (a) of sub-rule (1) of Rule 4 may be awarded shall be dealt with in accordance with the procedure laid down in sub-rule (1) of Rule 14. (2) The case in which minor punishments enumerated in Clause (b) of sub-rule (1) of Rule 4 may be awarded, shall be dealt with in accordance with the procedure laid down in sub-rule (2) of Rule 14. (3).....”*
- “14. *Procedure for conducting departmental proceedings-*
- (1) *Subject to the provisions contained in these Rules, the departmental proceedings in the cases referred to in sub-rule (1) of Rule 5 against the Police 6 Officers may be conducted in accordance with the procedure laid down in Appendix I.*
- (2) *Notwithstanding anything contained in sub-rule (1) punishments in cases referred to in sub-rule (2) of Rule 5 may be imposed after informing the Police Officer in writing of the action proposed to be taken against him and of the imputations of act or omission on which it is proposed to be taken and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal.***
- (3).....”

9. The above rule position makes it clear that in order to impose minor penalty, it is mandatory to inform the Police Officer in writing of the action proposed to be taken against him and of the imputations of act or omission on which it is proposed to be taken and to give him a reasonable opportunity of making such representation as he may wish to make against the proposed minor penalty.

10. This Tribunal finds that during the inquiry, petitioner was given due opportunity of hearing; his statements were also recorded in the inquiry; the inquiry officer recorded his finding on the basis of evidence. The inquiry officer submitted his detailed inquiry report, which was duly taken into consideration by the Disciplinary Authority and agreeing with the conclusion drawn by the inquiry officer, a show cause notice was issued to petitioner by the Disciplinary Authority.

11. The record also reveals that the petitioner submitted his reply to show cause notice, which was duly considered by the Disciplinary Authority and finding the reply unsatisfactory, Disciplinary Authority found the petitioner guilty of negligence and dereliction of duty and passed the impugned punishment order of censure entry.

12. The Tribunal is of the view that the Disciplinary Authority while passing the impugned order, adopted the procedure set by law. The petitioner was afforded sufficient opportunity of hearing. This court cannot go into the subjective satisfaction of the Disciplinary Authority. There is no procedural lacuna in the proceedings and a reasoned order was passed by the Disciplinary Authority.

13. The appeal filed by the petitioner was considered thoroughly and after considering all the facts, narrated by the petitioner in his appeal, the Appellate Authority also passed a detailed order and dismissed his appeal. There is no procedural lacuna in deciding the appeal.

14. Hence, in view of the above facts, this Tribunal is of the view that there is no ground of interference in the impugned orders, passed by the Disciplinary Authority and the Appellate Authority, hence, petition has no merit and deserves to be dismissed.

**ORDER**

The claim petition is hereby dismissed. No order as to costs.

**(RAJENDRA SINGH)**  
VICE CHAIRMAN (J)

*DATE: OCTOBER 12, 2022.*  
*DEHRADUN*  
*KNP*