

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

Present: Hon'ble Mr. Rajendra Singh

-----Vice Chairman (J)

**CLAIM PETITION NO. 17/SB/2020**

Pradeep Kumar Mishra, s/o Late Sri B.P. Mishra, aged about 42 years, presently working as Sub-Inspector, Vigilance, Headquarter, Dehradun.

.....Petitioner

**With**

**CLAIM PETITION NO. 102/SB/2020**

Gambhir Singh Topar, s/o Shri B.S.Tomar, aged about 44 years, presently working as Sub-Inspector Incharge Chowki, purani Tehsil, Police Station, Kotwali Gangneher, District Haridwar.

.....Petitioner

**With**

**CLAIM PETITION NO. 103/SB/2020**

Praveen Khatri, s/o Shri Surinder Singh, aged about 35 years, presently working as Constable under Cow Protection Squad, S.S.P. Office, District Haridwar.

.....Petitioner

**With**

**CLAIM PETITION NO. 73/SB/2020**

Anil Singh Bisht, s/o Shri Toder Singh Bisht, aged about 42 years, presently working as Sub-Inspector at Police Station Laksar, district Haridwar.

.....Petitioner

**Vs.**

1. State of Uttarakhand through Secretary (Home), Civil Secretariat, Dehradun.
2. Senior Superintendent of Police, Haridwar.
3. Inspector General of Police, Garhwal Region, Uttarakhand, Dehradun.

.....Respondents

Present: Sri Shashank Pandey, Advocate for the Petitioners

Sri V.P.Devrani, A.P.O., for the Respondents.

**JUDGMENT****DATED: DECEMBER 07, 2022**

Since in all the claim petitions, the impugned punishment order dated 03.06.2019 has been passed by the Senior Superintendent of Police, Haridwar, by which the petitioners have been awarded censure entry for the same incident. The material facts of the matter are also same, therefore, these claim petitions are being decided by a common judgment. The claim petition no.17/SB/2020, Pradeep Kumar Mishra vs. State of Uttarakhand & others will be the leading case.

2. In all the claim petitions, the petitioners have sought the similar reliefs, which are as follows:

- a. To issue order or direction to quash order dated 03.06.2019 vide which the petitioner has been punished with a censure entry (Annexure A1).*
- b. To issue order or direction to quash order dated 15.11.2019 vide which the appeal of the petitioner has been rejected (Annexure A2).*
- c. To issue order or direction, directing the respondent to give to the petitioner amount withheld as difference of salary and suspension allowance.*
- d. To give the cost of the petition to the petitioner.*
- e. To give any order reliefs this Hon'ble Court may deem fit and proper in the circumstances of the case.*

3. Brief facts of the case, according to the claim petitions, are that in February, 2019, the petitioner, Pradeep Kumar Mishra (in C.P. No. 17/SB/2020) was working as SHO, Jhabrera, Haridwar. The petitioner, Gambhir Singh Tomar (in C.P. No. 102/SB/2020) was working as Chowki Incharge, Iqbalpur under the police station, Jhabrera, district Haridwar. The petitioner, Praveen Khatri (in C.P. No. 103/SB/2020) was posted as Constable at Chowki Iqbalpur, Police Station Jhabrera, district Haridwar. The petitioner, Anil Singh Bisht (in C.P.No. 73/SB/2020) was posted at Chowki Iqbalpur under the police station Jhabrera, District Haridwar. During this period of posting of the petitioners, a tragedy struck where many people died due to consumption of illegal liquor.

4. In relation to this matter, the inquiry was conducted by the Circle Officer, Manglore after which it came in light that under the jurisdiction of Thana Jhabrera, 43 people who were residing in villages namely Gram Balupur, Balswagaaz and Bindukhadak etc. died and some were severely ill due to the consumption of illegal alcohol. After this incident, 558 liters of chemical and 34 liters of country liquor were found from the villages, falling outside the jurisdiction of Police Station Jhabrera. These volumes were later destroyed by the authorities. The petitioners were charged under the offence of not performing their duties by being on such a responsible post, as they did not put restrictions on the sale of illegal country liquor and had not taken any stringent and legitimate action against the persons who were involved under such an offence. Hence, the petitioners are liable for misconduct due to the indiscipline and unwarranted behaviour towards the duties.

5. On the basis of such charges, the show cause notices were issued to the petitioners by the Senior Superintendent of Police, Haridwar. The petitioners replied to the show cause notices, denying the charges levelled against them. It has been clearly pointed out the fact that the illegal liquor production was not prevalent under their jurisdiction but it was brought from areas like Punden and Assewala of Saharanpur, district Uttar Pradesh for the function in Ballupur's Nanus family (Nanu is no more). The petitioner, Pradeep Kumar Mishra, has also emphasized that the considerable volumes of chemical and liquor *i.e.* 558 ltr. and 34 ltr. has found and mentioned in his investigation report by C.O. Manglore. Only 34 ltr. Was recovered from areas which fall under the exclusive jurisdiction of Police Station, Jhabrera. The rest of the volumes were recovered from adjacent jurisdiction of Haridwar district Roorkee and Bhagwanpur in addition to Saharanpur, which fall under the adjoining State of Uttar Pradesh.

6. It has been stated by the petitioners that without considering the replies to the show cause notices, the respondent no. 2 punished the

petitioners with a censure entry vide order dated 03.06.2019. The petitioners filed appeals against impugned orders dated 03.06.2019, which were dismissed by the Inspector General of Police, Garhwal Region (respondent no. 3) vide order dated 15.11.2019, on the grounds that the appeals were unviable and baseless. The difference of suspension allowance and salary from the date on which the petitioners were suspended and the date on which the suspension was revoked has not been paid to the petitioners without any separate show cause notice.

7. Respondents have opposed the claim petitions by filing written statements. They have denied the contents of the claim petitions and have stated that the impugned orders have been passed as per law and rules. The preliminary inquiry conducted by the inquiry officer is an impartial inquiry and the petitioners were given full opportunity of defence/hearing. During the inquiry, the inquiry officer recorded the statements of the petitioners and others and they failed to prove themselves innocent, as a result of which their gross negligence and laxity have been proved in curbing the sale of spurious liquor in the affected village, due to which 43 have lost their lives and some people were sick. Thereafter, a criminal case no. 22/2019 under section 304,328, 372, 373 IPC and 62 of the Excise Act was registered against the accused involved in the incident. It was informed by the villagers that the even after having full cognizance, no concrete action was taken for effective prevention/curb, as a result, the petitioner/SHO Jhabrera and other responsible, S.I. Gambhir Singh Tomar, S.I. Anil Bisht, Constable Surendra Singh, Constable Praveen Khatri *prima-facie* found guilty and the proceedings under the Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991 was initiated and C.O., Manglore, district Haridwar was appointed as an inquiry officer. The Preliminary Inquiry officer submitted the inquiry report to respondent no. 2 and agreeing upon the inquiry report, the respondents no. 2 issued the show cause notices to the petitioners and given opportunity to reply the same. Thereafter, the petitioners replied to the show cause notice, which

the respondent no. 2 found unsatisfactory and against the real facts. Thereafter, respondent no. 2 passed the order awarding the censure entry vide order dated 03.06.2019 to the petitioners. Appeal preferred by the petitioners against the impugned order, was also rejected vide order dated 15.11.2019 by the appellate authority, finding the same baseless. Hence the impugned orders are perfectly valid and as per rules and the claim petitions are liable to be dismissed.

8. Heard learned Counsel for the petitioner and learned A.P.O. and perused the record.

9. It has been argued on behalf of the petitioners that the charges levelled against the petitioners are vague and without evidence. The inquiry conducted against the petitioners is against the rules of natural justice, as the petitioners have not been provided with the opportunity to rebuttal the evidence used against the petitioner. During the tenure of petitioner, Pradeep Kumar Mishra as SHO, Jhabrera, had sent 63 persons to jail and had conducted '*Nasha Unmoolan Programme*'. It was only because of the strict actions taken by the petitioner that the villagers had to procure the illegal liquor from nearby villages, resulting in them purchasing spurious liquor and culminating in such a tragic incident. It has further been argued that since the outset of his tenure as the SHO, Jhabrera has dealt with 27 reporting of cases to the illegitimate liquor and has acted under the appropriate provisions of Excise Regulations. Further, from time to time conducted the meetings of beat incharges to enquire law and order. On receipt of information about the said case on 08.02.2019, the petitioner did initiate prompt action. He not only reached the spot personally but also intimated the senior officials in time. The petitioner in due performance of his obligations sent the victims to the hospitals, took the custody of dead bodies and also arrested the culprits, *prima-facie*, by fetching a non-bailable warrant from the Court of law. It has been stated that the illegal liquor production was not prevalent under the jurisdiction of the petitioner but it was brought from areas like

Punden and Assewala of Saharanpur District, Uttar Pradesh for the function of Ballupur's Nanu's family (Nanu is no more). It has also been stated that the considerable volumes of chemical and liquor *i.e.* 558 ltr. and 34 ltr. as found and mentioned in his investigation report by C.O., Manglore. Only 34 ltrs. was recovered from areas which fall under the exclusive jurisdiction of police station Jhabrera. The rest of the volumes were recovered from adjacent jurisdiction of Haridwar district, Roorkee and Bhagwanpur in addition to Saharanpur which fall under the adjoining State of Uttar Pradesh. Without taking into consideration the reply given by the petitioners, the respondent no. 2 punished the petitioners with a censure entry vide order dated 03.06.2019. This was done when in no enquiry it was ever found that any illegal substance was found from the area under the jurisdiction of the petitioners.

10. Respondents have argued that 60 Excise Act cases have been registered against the identified criminals of sale of raw and poisonous liquor in village Balupur, Bindukhadak, Bhalswagaaz etc. under the police station area of the petitioner. While posted on important post as SHO, if some effective steps had been taken for the incident, in relation to getting ill/injured due to alcohol, huge loss of lives could have been avoided. If the petitioner being the officer incharge of the police station, to curb and prevent the sale of illegal raw liquor and if the action had been taken, the incident of such huge loss of life would not have happened in the village. In petitioner's police station area, village Balupur, Bhalswagaaz etc. cases were registered under the Excise Act against certain mafias. This business was going on without any prevention/restriction in the jurisdiction of the petitioner, due to which there was a question mark on the working activities of the police, such as maintaining law and order in the society. The petitioners are fully guilty/responsible for the death/incident that occurred on 07.08.2019. It has further been submitted that the petitioner was paid salary for the suspension period as per Rule 53(Kha) of the Financial Handbook Part 2 to 4. Neither petitioners have challenged the suspension order before the

Department after their revocation nor any relief has been sought in the claim petition for quashing of the said order.

11. Perusal of the inquiry report, it is revealed that the inquiry officer conducted the inquiry for allegations levelled against the petitioners that some local villagers and border area people died due to consumption of raw liquor on 07.02.2019 in village Balupur, Bhaswagaaz, Bindukharak etc. under the thana Jhabrera area and the petitioners and concerned officers/employees did curb to such incident. The inquiry officer recorded the statements of the petitioners. Petitioner, Pradeep Kumar Mishra stated that on receipt of information about the said case on 08.02.2019, the petitioner did initiate prompt action. He not only reached the spot personally but also intimated the senior officials in time. The petitioner in due performance of his obligations sent the victims to the hospitals, took the custody of dead bodies and also arrested the culprits, *prima-facie*, by fetching a non-bailable warrant from the Court of law. It has been stated that the illegal liquor production was not prevalent under the jurisdiction of the petitioner but it was brought from areas like Punden and Assewala of Saharanpur District, Uttar Pradesh for the function of Ballupur's Nanu's family (Nanu is no more). If the said liquor was manufactured under the Thana Jhabrera police station area or if liquor was bought and sold in the past, then surely effective action would have been taken against the accused. After recording the statements of all the petitioners, the inquiry officer reached to the conclusion as under:

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12. On the basis of the findings of the inquiry officer, the Disciplinary Authority, respondent no.2 found the petitioners guilty of negligence, indiscipline and unwarranted behaviour towards their duties. The petitioners were given show cause notices to reply within the stipulated time. The petitioners replied to the show cause notices. In reply to the show cause notices, it is stated that:

Ekgksn; tkap esas ;g rF; vafdr gS fd izHkkfor xkao ,oa vkl&ikl ds xkao ls 558 yhVj dSfedy o 34 yhVj dPph “kjk cken dh x;h gSA ;gka Li’V fd;k tkrk gS fd 558 yhVj dSfedy Fkkuk >cjsM+k lhekUrZxr cken ugh gqvk gS] ;g dFku fujk/kkj gS tks tkWp esa lgh vafdr ugha gSA Fkkuk lhekUrZxr ek= 34 yhVj dPph “kjk cken gksuk Lohdkj gS tks fd Fkkuk >cjsM+k {ks= esa “kjk rLdjh ij iw.kZ izfrcU/k gksus ds dkj.k



vfHk;qDrx.kksa }kjk Hkxokuiqj] :M+dh tuin gfj}kjk o lgkjuiqj tuin esa vkbZ0ih0,0 dSfedy rLdjh dj ykuk izdk”k esa vk;k gS rFkk vfHk;qDr vtqZu fuoklh xzke pqfM;kyk Fkkuk Hkxokuiqj dh nqdku xzke fljpUnh Fkkuk Hkxokuiqj Is ,d M<sup>a</sup>e dSfedy cjen fd;k x;k rFkk fnukad 12-02-2019 dks vfHk;qDrx.k vtZqu dh gh fu”kkunsg h ij nks M<sup>a</sup>e dSfedy vkbZ0ih0,0 :M+dh xkSnke lqugjk jksM Is tks dze”k% 189-5 yhVj dSfedy vkbZ0ih0,0 o 149-5 yhVj dSfedy vkbZih0,0 cjen gksuk izdk”k esa vk;k gSA mDr cjenxh LFky Fkkuk >cjsM+k lhekUrXkZr ugha vkrs gSa cfYd tuin ds vU; Fkkuksa ds lhekUrZr vkrs gSaA

-----egksn; mDr ?kVuk ds lEcU/k esa foLr`r tkudkjh dh x;h rks ?kVuk esa izHkkfor ,oa vU; LFkkuh; O;fDr;ksa }kjk ?kVuk esa iz;qDr tgjhyh “kjk ek= mlh fnu ckyqij ds ukw ds ifjtuksa }kjk e`rd ukw dh rSgjh esa vk;ksftr dk;Zdze esa tuin lgkjuiqj ds iq.Msu o vLlsokyk Is dz; fd;k tkuk crkrs gq, bls iwoZ fdh izdkj dh “kjk dz; fodz; djus dh ?kVuk xkao esa uk gksuk crk;A egksn; ;fn mDr “kjk Fkkuk >cjsM+k {ks=kUrxZr fufeZr dh tkrh ;k iwoZ esa Hkh dz; fodz; dh tkrh rks fu”pr gh “kjk cukus okyasa ,o mudh fcdzh djus okyasa ds fo:) Fkkuk >cjsM+k LFky Is izHkkoh dk;Zokgh dh tkrh A Pkwafd FkkukUrxZr voS/k “kjk iw.kZr;k can Fkh blh otg Is lhek Is yxs vU; izns”k {ks= Is gh pksjh fNis “kjk yk;h x;h gksxh tks fd tkap Is Hkh Li’V gqv k gS fd iz”uxr “kjk lhekUrXkZr vU; izns”k Is yk;h x;h FkhA ftlls Li’V gS fd FkkukUrxZr fdh izdkj dh voS/k “kjk uk rks curh Fkh vkSj uk gh fodz; gksrh FkhA

13. On the basis of the above discussion, it is clear that the incident took place on 7/08.02.2019 in deceased Nanu’s ‘*Terahavi*’ function, in which some local residents died due to consumption of illegal alcohol. In relation to this matter, the probe was conducted by the Circle Officer, Manglore after which it came in light that under the jurisdiction of The Jhabrera, 34 people who were residing in villages namely village Balupur, Balswagaaz and Bindukhadak etc. Died and some were severely ill due to the consumption of illegal alcohol. The petitioner, Pradeep Kumar Mishra, in para 4.d of the claim petition, it is stated that after this incident

558 liters of chemical and 34 liters of country liquor was found from the villages falling outside the jurisdiction of Police Station Jhabrera. These volumes were later destroyed by the authorities. It clearly indicates that the sale of raw liquor was being practiced in these villages since a long while. In para 4.e of the claim petition, the petitioner stated that the petitioner was charged under the offence of not performing his duty by being on such a responsible post of SHO, Jhabrera as he did not put restrictions on the sale of illegal country liquor and had not taken any stringent and legitimate action against the provisions who were involved under such an offence. The Respondents denying, the contentions of these paras of the petitioners, have replied in paras 7 & 8 of the Counter Affidavit that- under the petitioner's Thana jurisdiction of villages Balupur, Bindukharak, Bhalswagaaz etc, about 60 cases under the Excise Regulations have been registered against the marked criminals involved in sale of illicit and poisonous liquor and recovery of the illicit and poisonous liquor from the accused is itself proved. The main recovery sample which is submitted in the Court for examination, will be presented at the time of final hearing. Had the petitioner, while being posted on such an important post of as that of SHO, taken any effective action against the highly spotlighted death of 43 people and their falling ill/getting injured due consumption of the poisonous liquor in the Jhabrera area, published in newspapers/electronic media, the huge loss of lives could have been prevented.

14. In view of the above, the Tribunal is of the view that on the occasion of Terahvi function of the deceased Nanu, 43 people died and some were severely ill due to the consumption of illegal alcohol. The inquiry officer conducted the inquiry and recorded the statements of the petitioners only and gave its unjustified findings. The inquiry officer in its conclusion, it has been mentioned that during the investigation visit to the affected villages, Balupur, Bindukhadak, Bhalswagaaz etc., came to know from the local public that the police did not take effective action in the past on the consumption of raw liquor. It is also said by the local

people that in past, when the raw liquor maker was stopped by them, their family members made false allegations against the complainants/stoppers and they had to be humiliated. It is shocking that the inquiry officer did not record the statements of the aforesaid villagers. The petitioners, after the incident, 558 liters of chemical and 34 liters of country liquor found from the villages falling outside the jurisdiction of Police Station Jhabrera. These volumes were later destroyed by the authorities. The inquiry officer in the report has mentioned that the recovered goods have been sent to F.S.L. for examination. There is no such FSL report available on record, by which it could be proved that the substance of chemical, which was recovered from the village, has been found in the country liquor and consuming of the same, the incident took place. No statements of local persons of the villages have been recorded during the inquiry. Even no statements of the family members of the deceased Nanu, where the function was going on, have been taken. It is also not clear from the inquiry whether the same illicit liquor found in the area was actually consumed by persons who died. It can also be possible that the people came from outside to join the function, might have brought and consumed the liquor. The inquiry officer should have also considered this aspect. In the absence of any evidence, the inquiry officer came to the conclusion that petitioners were negligent towards their duties to prevent the illegal sale of illicit and poisonous liquor, which is against the rules of natural justice. The disciplinary authority without taking into consideration the reply submitted by the petitioners and only on the basis of the report of the inquiry officer, punished the petitioners with a censure entry vide order dated 03.06.2019. The appellate authority also did not apply its mind and relying upon the order of the disciplinary authority, rejected the appeals filed by the petitioners. Hence, the whole finding is perverse. Accordingly, the impugned punishment orders appear to be passed in violation of principles of natural justice and are not based on the real facts and evidence, hence, deserve to be set aside.

**ORDER**

The claim petitions are allowed. The impugned punishment orders dated 03.06.2019 passed by the respondent no.2 and appellate orders dated 15.11.2019 passed by the respondent no. 3 are hereby set aside. The respondents are directed to expunge the censure entry recorded in the character roll of the petitioners. Consequently, the petitioners are also entitled to get the full salary and allowance(s) for the period of suspension. No order as to costs.

Let copies of this order be kept on the files of Claim Petitions no. 102/SB/2020, 103/SB/2020) and Claim Petition no. 73/SB/2020.

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

*DATE: DECEMBER 07, 2022.*

*DEHRADUN*

*KNP*