BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL AT DEHRADUN

Present: Hon'ble Mr. Justice U.C. Dhyani

------- Chairman

Hon'ble Mr. Rajeev Gupta

-------Vice Chairman (A)

CLAIM PETITION NO. 32/SB/2020

Sri Mohan Singh Kathait, s/o Sri Beer Singh Kathait, aged about 33 years, presently posted as Sub Inspector in Police Station, SIDCUAL Haridwar.

……Petitioner

vs.

1. State of Uttarakhand through Secretary, Home, Govt. of Uttarakhand, Subhash Road, Dehradun.
2. Police Mahanirikshak, Garhwal Region, Uttarakhand, Dehradun.
3. Senior Superintendent of Police, Haridwar.

...…….Respondents

Present: Sri Abhishek Chamoli and Sri V.P. Sharma (online), Advocates, for the Petitioner
Sri V.P. Devrani, A.P.O. for the Respondents

JUDGMENT

DATED: MARCH 01, 2023.

Justice U.C. Dhyani (Oral)

By means of present claim petition, the petitioner seeks to set aside the impugned order dated 13.12.2019 (Annexure: A1), which has been affirmed by the Appellate Authority *vide* order dated 05.02.2020 (Annexure: A2).

2. Petitioner was awarded 'censure entry' by the disciplinary authority (S.S.P., Haridwar), which has been upheld by I.G., Garhwal Range, in departmental appeal.

3. Aggrieved with the same, present claim petition has been filed by the petitioner.

4. At the very outset, learned Counsel for the petitioner submitted that the petitioner wants to file revision against the appellate order. The order passed by the disciplinary authority has merged into the appellate authority's order.

5. Rule 23 of the U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991 reads as below:

> **"23. Revision-** An officer whose appeal has been rejected by any authority subordinate to the Government is entitled to submit an application for revision to the superior authority next to the authority which has rejected his appeal within three months from the date of rejected of appeal as mentioned below:
>
> (a) to the Police officer who is the immediate jurisdictional superior authority to the Police Officer who passed the appellate order.
>
> (b) to the Director General of Police who may either decide the revision himself or nominate any Additional Director General for deciding it;
>
> (c) to the State Government against the order passed under Clause (b).
>
> On such an application the powers of revision may be exercised only when, in consequent of flagrant irregularity, there appears to have been material injustice or miscarriage of justice:
>
> Provided that the revising authority may on its own motion call for and examine the records of any order passed in appeal against which no revision has been preferred under this rule for the purpose of satisfying itself as to the legality or propriety of such order or as to the regularity of such procedure and pass such order with respect thereto as it may think fit:
>
> Provided further that no order under the first proviso shall be made except after giving the person effected a reasonable opportunity of being heard in the matter.
>
> (2) The procedure prescribed for appeal applies also to applications for revision. An application for revision of an order rejecting an appeal shall be accompanied by a copy of the original order as well as the order of appellate authority."
>
> *[emphasis supplied]*

6. Learned Counsel for the petitioner drew attention of this Tribunal towards sub-section (2) of Section 86 of the Uttarakhand Police Act, 2007, to submit that "Rules or Regulations made under the provisions of the said Act *(i.e. The Indian Police Act, 1861)* shall, insofar as it is not inconsistent with the provisions of this Act be deemed to have been made under the corresponding provisions of the Act and shall continue to be in force unless and until superseded by anything done or action taken under this Act."

7. Sri V.P. Devrani, learned A.P.O., submitted that there is no provision of revision under the Uttarakhand Police Act, 2007.

8. In reply, learned Counsel for the petitioner submitted that the U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991, have been framed under the Indian Police Act, 1861. No rules or regulations have, so far been framed under the Uttarakhand Police Act, 2007, and therefore, the remedy of revision is available to the petitioner inasmuch as it is not inconsistent with the provisions of Uttarakhand Police Act, 2007 and therefore, revision will lie.

9. Without prejudice to rival contentions, the claim petition is disposed of by giving liberty to the petitioner to submit an application for revision to the Authority next in rank above by which his appeal has been rejected, within four weeks from today. The delay in filing such application is condoned in the interest of justice [Section 5 of the Limitation Act, 1963 applies to the applications also].

10. If such revision is filed by the petitioner, within the aforesaid period, the competent authority shall decide the same without unreasonable delay, in accordance with law. No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C. DHYANI)
CHAIRMAN

DATED: MARCH 01, 2023
DEHRADUN
RS