

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

Present: Hon'ble Mr. Rajendra Singh

-----Vice Chairman (J)

**CLAIM PETITION NO. 72/NB/SB/2022**

Bache Singh Bisht, s/o Late Sri Indra Singh Bisht, presently posted as Sub Inspector of Police, Police Station, District Champawat, Uttarakhand.

.....Petitioner

**vs.**

1. State of Uttarakhand through Secretary, Home, Dehradun.
2. Director General of Police, Uttarakhand, Dehradun.
3. Inspector General of Police, Kumaon Region, Nainital.
4. Senior Superintendent of Police, Udham Singh Nagar.

.....Respondents

Present: Sri Dinesh Gahtori, Advocate, for the Petitioner  
Sri Kishore Kumar, A.P.O., for the Respondents.

**JUDGMENT**

**DATED: MARCH 17, 2023**

This claim petition has been filed for seeking the following reliefs:

*“1. To set aside inquiry report dated 07.03.2019, the orders dated 09.06.2020 passed S.S.P., Udham Singh Nagar and order dated 31.12.2020 passed by Inspector General of Police, Kumaon Range, Nainital.*

*2. To issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper under the circumstances of the facts and circumstances of the case.*

*3. To award the cost of the application in favour of the applicant, otherwise, the petitioner shall suffer irreparable loss and injury.”*

3. The relevant facts in brief are that the petitioner is a Sub Inspector in civil police in the State of Uttarakhand and while posted as S.I. at Police Chowki Bara, police station Pulbhatta, Udham Singh Nagar, the investigation of certain cases was allotted to him including the investigation

of FIR No. Nill of 2014 u/s 41/102 CrPC and u/s 411 of IPC, but the Station Officer Sri R.S. Dangi had transferred the investigation of said case to Sub-Inspector Sri Lal Singh Bora.

4. The petitioner was issued a show cause notice on 04.05.2019 by the Senior Superintendent of Police, Udham Singh Nagar as to why the censure entry be not given to him as a minor penalty under the Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991. The Allegation against the petitioner, based on the preliminary enquiry in the show cause notice was as under:

“वर्ष 2015 में जब आप प्रभारी चौकी बरा थाना पुलभट्टा जनपद ऊधमसिंहनगर में नियुक्त थे तो थाना किच्छा पर पंजीकृत मुकदमा एफआईआर नं० 309/2014 धारा 379/411 भादवि में गिरफ्तार अभियुक्त नाजिम व तहजीब के कब्जे से 06 मोटर साइकिल (1) बजाज पल्सर बिना नम्बर चे०न० MD2DHDHZZRCB91151- ई०न० DHGBR91901 (2) डिस्कवर बिना नम्बर चे०न० MD2DSPAZZVBP89495 ई०न० JUBUBV24626 (3) बिना नम्बर चे०न० MD2DHDHRCH34050 ई०न० DHGBRH35839 (4) मो०सा० हीरो होण्डा स्पलैण्डर बिना न० चे०न० O7C16F25176 ई०न० O7C15E21866 (5) मो०सा० बजाज डिस्कवर बिना नम्बर चे०न० MD2DSDSZZNCA24777 ई०न० DSGBNA00997 (6) मो०सा० बजाज बॉक्सर बिना नम्बर चे०न० MD2PFPPFZZUP00566 ई०न० PFUBUB00546 बरामद होने के सम्बन्ध में आर०ओ०पी० पुलभट्टा थाना किच्छा पर एफआईआर नं०—निल/2014 धारा 41/102 दं०प्र०सं० व 411 भादवि पंजीकृत प्रारम्भिक विवेचना उ०नि० कोठारी द्वारा की गयी। थानाध्यक्ष पुलभट्टा के आदेशानुसार दिनांक 25-6-2015 को उक्त अभियोग की विवेचना आपके सुपुर्द की गयी थी परन्तु आप द्वारा अभियोग में किसी प्रकार की विवेचनात्मक कार्यवाही नहीं की गयी जिस कारण विवेचना अनावश्यक रूप से लम्बित रही जिसके उपरान्त दिनांक 18-6-2016 को उक्त विवेचना उ०नि०वि०श्रे० लाल सिंह बोरा के सुपुर्द की गयी। उक्त प्रकरण में प्रचलित की गयी जांच से आप द्वारा सम्बन्धित मो०सा० को तस्दीक करने हेतु कोई पत्राचार न करना एवं विवेचनात्मक कार्यवाही को अनावश्यक रूप से लम्बित रखकर लापरवाही बरतना परिलक्षित हुआ है। इस प्रकार द्वारा अभियोग की विवेचनात्मक कार्यवाही को अनावश्यक रूप से लम्बित रखना अपने कर्तव्य के प्रति घोर लापरवाही, अनुशासनहीता, शिथिलता, अकर्मण्यता एवं स्वेच्छाचारिता का द्योतक है।

अतः आप इस नोटिस प्राप्ति के 15 दिवस के अन्दर अपना लिखित स्पष्टीकरण प्रस्तुत करें, कि क्यों न आपके इस कृत्य के लिये उत्तराखण्ड उ०प्र० अधीनस्थ श्रेणी के पुलिस अधि० कर्म० की (दण्ड एवं अपील) नियमावली 1991) अनुकूलन एवं उपान्तरण आदेश 2002 के नियम 14 (2) की विभागीय कार्यवाही के अन्तर्गत आपकी चरित्र पंजिका में निम्नलिखित परिनिन्दा लेख अंकित कर दिया जाये। यदि आपका लिखित स्पष्टीकरण

निर्धारित अवधि के अन्दर इस कार्यालय में प्राप्त नहीं होता है तो यह समझा जायेगा कि आपको उक्त सम्बन्ध में कुछ नहीं कहना है और स्पष्टीकरण के अभाव में एकपक्षीय निर्णय लेकर अग्रिम आदेश पारित कर दिये जायेंगे। प्रकरण से सम्बन्धित जाँच आख्या की छायाप्रति संलग्न है—

**“वर्ष— 2019**

वर्ष 2015 में जब आप प्रभारी चौकी बरा थाना पुलभट्टा जनपद ऊधमसिंहनगर में नियुक्त थे तो थाना किच्छा पर पंजीकृत मुकदमा एफआईआर नं० 309/2014 धारा 379/411 भादवि में गिरफ्तार अभियुक्त नाजिम व तहजीब के कब्जे से 06 मोटर साइकिल (1) बजाज पल्सर बिना नम्बर चे०न० MD2DHDHZZRCB91151- ई०न० DHGBR91901 (2) डिस्कवर बिना नम्बर चे०न० MD2DSPAZZVBP89495 ई०न० JUBUBV24626 (3) बिना नम्बर चे०न० MD2DHDHRCH34050 ई०न० DHGBRH35839 (4) मो०सा० हीरो होण्डा स्प्लैण्डर बिना न० चे०न० O7C16F25176 ई०न० O7C15E21866 (5) मो०सा० बजाज डिस्कवर बिना नम्बर चे०न० MD2DSDSZZNCA24777 ई०न० DSGBNA00997 (6) मो०सा० बजाज बॉक्सर बिना नम्बर चे०न० MD2PFPFZZUP00566 ई०न० PFUBUB00546 बरामद होने के सम्बन्ध में आर०ओ०पी० पुलभट्टा थाना किच्छा पर एफआईआर नं०—निल/ 2014 धारा 41/102 दं०प्र०सं० व 411 भादवि पंजीकृत प्रारम्भिक विवेचना उ०नि० कोठारी द्वारा की गयी। थानाध्यक्ष पुलभट्टा के आदेशानुसार दिनांक 25-6-2015 को उक्त अभियोग की विवेचना आपके सुपुर्द की गयी थी परन्तु आप द्वारा अभियोग में किसी प्रकार की विवेचनात्मक कार्यवाही नहीं की गयी जिस कारण विवेचना अनावश्यक रूप से लम्बित रही जिसके उपरान्त दिनांक 18-6-2016 को उक्त विवेचना उ०नि०वि०श्रे० लाल सिंह बोरा के सुपुर्द की गयी। उक्त प्रकरण में प्रचलित की गयी जांच से आप द्वारा सम्बन्धित मो०सा० को तस्दीक करने हेतु कोई पत्राचार न करना एवं विवेचनात्मक कार्यवाही को अनावश्यक रूप से लम्बित रखकर लापरवाही बरतना परिलक्षित हुआ है। इस प्रकार द्वारा अभियोग की विवेचनात्मक कार्यवाही को अनावश्यक रूप से लम्बित रखना अपने कर्तव्य के प्रति घोर लापरवाही, अनुशासनहीता, शिथिलता, अकर्मण्यता एवं स्वेच्छाचारिता का द्योतक है, जिसकी परिनिन्दा की जाती है।

5. The petitioner submitted the reply to the show cause notice on 23.06.2019 and denied the charge levelled against him.

6. Respondent No. 4 considered the reply to show cause notice submitted by the petitioner and finding the same unsatisfactory and holding the petitioner guilty, awarded minor penalty of censure entry on 09.06.2020 (Annexure: 2). The punishment order reads as under:

**“आदेश**

वर्ष 2015 में जब आप प्रभारी चौकी बरा थाना पुलभट्टा जनपद ऊधमसिंहनगर में नियुक्त थे तो थाना किच्छा पर पंजीकृत मुकदमा एफआईआर नं०

309/2014 धारा 379/411 भादवि में गिरफ्तार अभियुक्त नाजिम व तहजीब के कब्जे से 06 मोटर साइकिल (1) बजाज पल्सर बिना नम्बर चे0न0 MD2DHDHZZRCB91151- ई0न0 DHGBR91901 (2) डिस्कवर बिना नम्बर चे0न0 MD2DSPAZZVBP89495 ई0न0 JUBUBV24626 (3) बिना नम्बर चे0न0 MD2DHDHRCH34050 ई0न0 DHGBRH35839 (4) मोंसा0 हीरो होण्डा स्पलैण्डर बिना न0 चे0न0 O7C16F25176 ई0नं0 O7C15E21866 (5) मोंसा0 बजाज डिस्कवर बिना नम्बर चे0न0 MD2DSDSZZNCA24777 ई0न0 DSGBNA00997 (6) मो0सा0 बजाज बॉक्सर बिना नम्बर चे0नं0 MD2PFPPFZZUP00566 ई0नं0 PFUBUB00546 बरामद होने के सम्बन्ध में आर०ओ०पी० पुलभट्टा थाना किच्छा पर एफआईआर नं०-निल/ 2014 धारा 41/102 दं०प्र०सं० व 411 भादवि पंजीकृत प्रारम्भिक विवेचना उ०नि० कोठारी द्वारा की गयी। थानाध्यक्ष पुलभट्टा के आदेशनुसार दिनांक 25-6-2015 को उक्त अभियोग की विवेचना आपके सुपुर्द की गयी थी परन्तु आप द्वारा अभियोग में किसी प्रकार की विवेचनात्मक कार्यवाही नहीं की गयी जिस कारण विवेचना अनावश्यक रूप से लम्बित रही जिसके उपरान्त दिनांक 18-6-2016 को उक्त विवेचना उ०नि०वि०श्रे० लाल सिंह बोरा के सुपुर्द की गयी। उक्त प्रकरण में प्रचलित की गयी जांच से आप द्वारा सम्बन्धित मोंसा० को तस्दीक करने हेतु कोई पत्राचार न करना एवं विवेचनात्मक कार्यवाही को अनावश्यक रूप से लम्बित रखकर लापरवाही बरतना परिलक्षित हुआ है। इस प्रकार द्वारा अभियोग की विवेचनात्मक कार्यवाही को अनावश्यक रूप से लम्बित रखना अपने कर्तव्य के प्रति घोर लापरवाही, अनुशासनहीता, शिथिलता, अकर्मण्यता एवं स्वेच्छाचारिता का द्योतक है।”

7. The petitioner filed an Appeal against the punishment order which was rejected on 31.12.2020 (Annexure: 3).

8. The petitioner has challenged the minor punishment of ‘censure’ mainly on the grounds that the appointing authority of Sub-Inspector of Police is the Deputy Inspector General of Police. As per Rule 4(3) of the U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991, as applicable in State of Uttarakhand, the Superintendent of Police may award any of the punishment mentioned in Rule 4 on such police officers Rules, 1991, as applicable in State of Uttarakhand, the Superintendent of Police may award any of the punishment mentioned in Rule 4 on such police officers below the rank of Sub-Inspectors. Meaning thereby the Superintendent of Police is not competent to award punishment mentioned in Rule 4(1) of the Rules of 1991 and it has the power to award punishment mentioned in Rule 4(1) to the Head Constables or the constables only. The disciplinary authority had not supplied the copies of the statement of witnesses replied upon by the disciplinary

authority. The inquiry was held only against one Sri Pankaj Joshi not against the petitioner. The findings of the inquiry officer regarding negligence are illegal and entire disciplinary proceedings were vitiated.

9. The claim petition has been opposed by respondents and in the Counter Affidavit, it has been stated that the petitioner was assigned the investigation of the FIR No. Nill/2014 under section 41/102 CrPC and 411 IPC vide order dated 25.06.2015 of the Chowki Incharge, Pulbhatta, but nothing was done in the investigation and the investigation was unnecessarily kept pending and thereafter, the investigation was assigned to S.I. Lal Singh on 18.06.2016. The act of the petitioner comes in the category of negligence and dereliction of duties, assigned to him. The preliminary inquiry was conducted under Rule 14(2) of the Rules of 1991. The petitioner was given a show cause notice. 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 an order under Rule 14(2) of the said Rules and the petitioner was awarded 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 against the order of the disciplinary authority was also duly considered and rejected as per Rules. The petition is, therefore, devoid of merit and liable to be dismissed.

10. I have heard both the parties and perused the record including the inquiry file carefully.

11. Learned Counsel for the petitioner has argued that that since the appointing authority of Sub-Inspectors of Police is the Deputy Inspector General of Police, the Superintendent of Police is not competent to award punishment as mentioned in Rule 4(1) of the Rules of 1991. According to Rule 4(3) of the U.P. Police Officers of the Subordinate Ranks (Punishment

and Appeal) Rules, 1991, as applicable in State of Uttarakhand, the Superintendent of Police may award any of the punishment mentioned in Rule 4 on such police officers Rules, 1991, as applicable in State of Uttarakhand, the Superintendent of Police may award any of the punishment mentioned in Rule 4 on such police officers, below the rank of Sub-Inspectors, meaning thereby, the Superintendent of Police is not competent to award punishment mentioned in Rule 4(1) of the Rules of 1991 and it has the power to award punishment mentioned in Rule 4(1) to the Head Constables or the constables only. Learned A.P.O. has argued that under sub rule 1(b) of Rule 4 of the U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991, in which minor penalty is defined. In Rule 5, procedure for award of punishment has been mentioned. In Rule 7 powers of punishment have been mentioned. Relevant Rules of the Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991 (as applicable in the state of Uttarakhand) 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.*

***5. Procedure for award of Punishment-***

*2. The cases 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.*

***7. Powers of punishment-***

*(1) The Government or any officer of police department not below the ranks of Deputy Inspector-General may award any of the punishments mentioned in rule-4 on any police officer.*

**(2) The Superintendent of Police may award any of the punishments mentioned in sub-clause (iii) of clause (a) and clause (b) of sub-rule (1) of rule 4 on Inspectors and Sub-Inspectors.**

12. The above rule position makes it clear that Superintendent of Police may award any of the punishments mentioned in sub-clause (iii) of clause (a) and clause (b) of sub-rule (1) of rule 4 on Inspectors and Sub-Inspectors.

13. The petitioner was assigned the investigation of the FIR No. Nill/2014 under section 41/102 CrPC and 411 IPC *vide* order dated 25.06.2015 of the Chowki Incharge, Pulbhatta, but no action was taken in the investigation and the same was unnecessarily kept pending for a period of about one year and due to negligence on the part of the petitioner in disposal of the investigation, a preliminary inquiry was conducted.

14. The 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 and the petitioner's negligence in keeping the investigation pending for long time, was found proved. 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. The record also reveals that 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.

15. The Tribunal is of the view that the Disciplinary Authority while passing the punishment, adopted the procedure set by law. The petitioner was afforded sufficient opportunity of hearing. This Tribunal 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. 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.

16. 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: MARCH 17, 2023*  
*DEHRADUN*  
*KNP*