

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

Present: Hon'ble Mr. Rajendra Singh

-----Vice Chairman (J)

**CLAIM PETITION NO. 109/NB/SB/2021**

Kailash Chandra Bhatt, s/o Late Sri Trilochan Dutt Bhatt, presently posted as Inspector, Police Office, Udham Singh Nagar.

.....Petitioner

**vs.**

1. State of Uttarakhand through Principal Secretary (Home) Civil Secretariat, Dehradun.
2. Inspector General of Police, Kumaon Region, Nainital.
3. Senior Superintendent of Police, Udham Singh Nagar.

.....Respondents

Present: Sri Shashank Pandey, Advocate, for the Petitioner  
Sri Kishore Kumar, A.P.O., for the Respondents

**JUDGMENT**

**DATED: JULY 12, 2023**

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

- "a. To issue order or direction directing the respondents to call for records and set aside order dated 09.10.2020 (Annexure A1) vide which the respondent no. 3 has given a censure entry to the petitioner.*
- b. To issue order or direction directing the respondents to call for records and set aside order dated 15.05.2021 (Annexure A2) vide which the respondent no. 2 has rejected the appeal of the petitioner.*
- c. To give any other relief fit and proper in the circumstances of the case;*
- d. To give cost to the petitioner."*

2. The facts of the case, in brief, are that the petitioner is presently posted as Inspector Civil Police in the Special Investigation Team, Rudrapur, Udham Singh Nagar. In the month of May 2020, the petitioner was posted

as Inspector (In charge) in Kotwali, Rudrapur. On 02.05.2020, some incident took place in one of the villages falling under his jurisdiction. Since it was peak Covid time and the petitioner was involved in Covid duties, this did not come to the knowledge of the petitioner and was handled by the Police Personnel posted in the relevant Post. It was only on 03.05.2020 that a Complaint was forwarded from the office of S.S.P., Udham Singh Nagar regarding incident on 02.05.2020. As soon as the petitioner received complaint forwarded from the office of S.S.P., Udham Singh Nagar, he immediately ordered for filing of a FIR, which was duly filed bearing number 0252, having been filed on 03.05.2020. However surprisingly, the petitioner was served with a show-cause notice dated 24.07.2020, he was asked to show-cause as to why he had not taken any action on the incident of 02.05.2020. The petitioner immediately gave a detailed reply to the show-cause notice.

The Respondent no. 3 without going through the facts of the case or without going through the reply to the show-cause notice, ordered punishment of a censure entry against the petitioner. The petitioner immediately filed a detailed appeal dated 03.02.2021 against the punishment order. The Respondent no.2 rejected the appeal vide order dated 15.05.2021. However, the amazing aspect is that the appellate authority also did not see that the punishment has been given on the basis of not filing of FIR on the incident of 02.05.2020, whereas the petitioner had already ordered for filing of FIR on the same day that the petitioner had received the intimation of the incident from the office of S.S.P.

Finally, a charge-sheet was also filed on 11.07.2020 in the FIR no 252. Thus, saying that no action was taken on the incident of 02.05.2020 is far from truth. Neither the disciplinary authority nor the appellate authority have applied their minds to the case and have mechanically proceeded for punishing the petitioner without appreciating the evidence on record.

3. Respondents have opposed the claim petition and have stated that on 02.05.2020, when the petitioner was posted as In-Charge Kotwali

Rudrapur District Udham Singh Nagar then one Jetindra s/o Chhatrapal r/o Malsa Gridhar Pur and his maternal brother (Mausaira Bhai) Annu Kashyap S/o Prem Shanker r/o Shanker Farm Kichha were going to floor mill (*Atta Chaki*) for grinding their wheat and they were without mask, due to which the local persons namely Ankit Banga, Rajat Banga and Anmol Banga stopped them and hot talks were took place between them, for the incident information was given to police and after getting information H.C. Chandra Prakash Bawari and Cheeta Mobile Team were sent to the place of occurrence. The concerned police personnel amicably settled the dispute and sent the parties to their home. But again on 03.05.2020 and 04.05.2020 the aforesaid villagers quarreled and done maarpeet to each other, for the incident Ravi Banga through his whatsapp number informed the petitioner and also sent medicals on 02.05.2020 and for the incidents occurred on 03.05.2020 and 04.05.2020, the parties made complaint and on their complaint first information report was registered. The petitioner who is in charge of the police station, which is a responsible post and have knowledge of the incident took place on 02.05.2020 did not make efforts to settle down the dispute between the parties and for which they again done maarpeet to each other and nuisance took place in the area during Covid Pandemic, thus for this negligent act of the petitioner, the respondent no.3 being his immediate superior authority issued show cause notice to the petitioner on 24.07.2020 under Rule 14 (2) of Uttarakhand (U.P. Subordinate Class Police Officers/Employees [Punishment & Appeal] Rules, 1991) adoptions and modification orders 2002 and section 23(2) of Uttarakhand Police Act 2007 and directed the petitioner to submit the reply of the same. The petitioner submitted his reply on 19.08.2020. Thereafter the disciplinary authority after going through the reply of the petitioner and relevant documents passed the punishment order with giving his specific findings on the reply of the petitioner. The petitioner filed statutory appeal under section 26 of the Uttarakhand Police Act 2007 before the respondent no.2 and the appellate authority vide detailed and reasoned order dated 15.05.2021 rejected the appeal by recording his findings.

The respondents while awarding the punishments to the petitioner followed the rules and also procedure as prescribed Uttarakhand (U.P. Police officers of the Subordinate Rank (Punishment & Appeal) Rules, 1991 adoptions and modification orders 2002. It is further stated that the disciplinary authority by giving opportunity of hearing to the petitioner as per the Rule14(2) of the above Rules of 1991 and section 23(2)B of Uttarakhand Police Act 2007 and after going through the reply of the petitioner, passed the punishment order and the appellate authority also after perusing the record rejected the appeal of the petitioner by a reasoned and explanatory order. Thus, there is no merit in the claim petition and is liable to be dismissed.

4. Rejoinder Affidavit has been filed on behalf of the petitioner, reiterating the same facts, as have been mentioned in the claim petition.

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

6. Learned Counsel for the petitioner has argued that on 02.05.2020, some incident took place in one of the villages, falling under petitioner's jurisdiction. Since it was peak Covid time and the petitioner was involved in Covid duties, this was handled by the Police Personnel posted in the relevant Post. It was only on 03.05.2020 that a complaint was forwarded from the office of S.S.P., Udham Singh Nagar regarding incident on 02.05.2020. As soon as the petitioner received the complaint forwarded from the office of S.S.P., Udham Singh Nagar, immediately ordered for filing of an FIR, which was duly filed bearing number 0252, having been filed on 03.05.2020. The petitioner was served with a show-cause notice dated 24.07.2020, he was asked to show-cause as to why he had not taken any action on the incident of 02.05.2020. He replied to the show cause notice. The respondent no. 3 without going through the facts of the case or without going through the reply to the show-cause notice, ordered punishment of a censure entry against the petitioner. The Respondent no.2 also rejected the appeal vide order dated 15.05.2021. The appellate

authority also did not see that the punishment has been given on the basis of not filing of FIR on the incident of 02.05.2020, whereas the petitioner had already ordered for filing of FIR on the same day that the petitioner had received the intimation of the incident from the office of S.S.P.

7. It has been argued on behalf of the respondents that on 02.05.2020 when the petitioner was posted as In-Charge Kotwali Rudrapur District Udham Singh Nagar then one Jetindra s/o Chhatrapal r/o Malsa Gridhar Pur and his maternal brother (Mausaira Bhai) Annu Kashyap S/o Prem Shanker r/o Shanker Farm Kichha were going to floor mill (*Atta Chakki*) for grinding their wheat and they were without mask due to which the local persons namely Ankit Banga, Rajat Banga and Anmol Banga stopped them and hot talks were took place between them. The information of the incident was given to police and after getting information H.C. Chandra Prakash Bawari and Cheeta Mobile Team were sent to the place of occurrence, the concerned police personnel amicably settled the dispute and sent the parties to their home. But again on 03.05.2020 and 04.05.2020 the aforesaid villagers quarreled and done maarpeet to each other, for the incident Ravi Banga through his whatsapp number informed the petitioner and also sent medicals on 02.05.2020 and for the incidents occurred on 03.05.2020 and 04.05.2020, the parties made complaint and on their complaint first information report was registered. The petitioner who is in charge of the police station which is a responsible post and have knowledge of the incident took place on 02.05.2020 not made efforts to settle down the dispute between the parties and for which they again done maarpeet to each other and nuisance took place in the area during Covid Pandemic.

8. On the basis of above discussion, it is clear that during posting of the petitioner as Inspector (In charge) in Kotwali, Rudrapur, on 02.05.2020, some incident took place in one of the villages falling under his jurisdiction. Since it was peak Covid time and the petitioner was involved in Covid duties. It was only on 03.05.2020 that a Complaint was forwarded from the office of S.S.P., Udham Singh Nagar regarding incident on 02.05.2020. The

petitioner immediately ordered for registering of an FIR as soon as the petitioner received the complaint forwarded from the office of S.S.P., Udham Singh Nagar. After getting information regarding the incident on 02.05.2020, H.C. Chandra Prakash Bawari and Cheeta Mobile Team were sent to the place of occurrence, the concerned police personnel amicably settled the dispute and sent the parties to their home. The charge levelled against the petitioner is that on 02.05.2020, on receiving information regarding the incident of assault and abuse between the parties, observing the sensitivity of the matter, necessary preventive action should have been implemented between both the parties, but it was not done by him, which is indicative of gross negligence, indiscipline, laxity, indolence and arbitrariness towards their duty. The incident which occurred on 02.05.2020, the concerned police personnel amicably settled the dispute and sent the parties to their home. Thereafter, as soon as the petitioner received the complaint forwarded from the office of S.S.P., Udham Singh Nagar on 03.05.2020, immediately ordered for filing of an FIR.

9. In view of the above, the Tribunal finds that on the date of incident that took place on 02.05.2020, after getting information, H.C. Chandra Prakash Bawari and Cheeta Mobile Team were sent to the place of occurrence. The concerned police personnel amicably settled the dispute and sent the parties to their home. Once the matter was settled amicably between the parties regarding the incident of 02.05.2020, the petitioner cannot be held guilty of negligence of not observing the sensitivity of the matter and not implementing necessary preventive action between both the parties. It was only on 03.05.2020 that a Complaint was forwarded from the office of S.S.P., Udham Singh Nagar regarding incident of 02.05.2020, the petitioner immediately ordered for registering of an FIR. The FIR of the incident was registered on 03.05.2020 and thereafter on next day, *i.e.* 04.05.2020, again another incident between the same parties took place. Hence, it cannot be presumed that had the FIR of the incident been registered on 02.05.2020, the same incident would have not taken place on

03.05.2020 and 04.05.2020. The FIR of the incident was registered on 03.05.2020, inspite of which, another incident between the same parties took place on 04.05.2020. The disciplinary authority while awarding the punishment did not take this fact into consideration that after registering the FIR also next day, another incident took place between the same parties. About the incident dated 02.05.2020, immediate action was taken from the concerned police and the matter was amicably settled between the parties. The disciplinary authority without considering the reply of petitioner and without proper application of mind, minor punishment of censure entry was imposed upon the petitioner. Thereafter, the petitioner filed appeal against the order of the S.S.P., Udham Singh Nagar dated 09.10.2020 before the respondent no.2. The appellate authority also did not consider the grounds taken by the petitioner in the appeal. Hence, the impugned punishment orders are liable to be set aside and the claim petition is liable to be allowed.

#### **ORDER**

The claim petition is allowed. The impugned punishment order dated 09.10.2020 passed by the Senior Superintendent of Police (respondent no. 3) and appellate order dated 15.05.2021 passed by the Inspector General of Police, Kumaon Region (respondent no. 2) are hereby set aside. The respondents are directed to expunge the censure entry recorded in the character roll of the petitioner within 30 days from the date of this order. No order as to costs.

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

*DATE: JULY 12, 2023*  
*DEHRADUN*  
*KNP*