

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

CLAIM PETITION NO. 37/SB/2023

Ram Naval Tiwari, s/o Late Sri Sinhasan Tiwari (Retd. SIV 110 AP) r/o B-216
Nehru Colony, Dharampur, Dehradun.

.....Petitioner

VS.

1. The Secretary, Home Department, Govt. of Uttarakhand, Dehradun.
2. The Director General of Police, Uttarakhand, Dehradun.
3. The Senior Superintendent of Police, District Haridwar, Uttarakhand.
4. The Senior Superintendent of Police, District Dehradun, Uttarakhand.
5. The Chief Treasury Officer, District Haridwar, Uttarakhand.

.....Respondents.

Present: Sri Uttam Singh, Advocate, for the petitioner.
Sri V.P.Devrani, A.P.O., for the Respondents.

JUDGMENT

DATED: MAY 15, 2024

Justice U.C.Dhyani (Oral)

Petitioner has sought several reliefs in the claim petition, which are opposed by Ld. A.P.O., *inter alia*, on the grounds that-

- (i) Relief No. 3 is barred by limitation in view of Section 5 (1)(b) of the Uttar Pradesh Public Services (Tribunal) Act, 1976.

(ii) Claim petition, in respect of plural reliefs, is not maintainable before the Tribunal in view of Rule 10 of the Uttar Pradesh Public Services (Tribunal) (Procedure) Rules, 1992.

2. In reply, Ld. Counsel for the petitioner submitted that the petitioner had no knowledge of impugned order dated 05.07.1995 (Annexure: A 3). He came to know of it only on 21.02.2023, therefore, the claim petition in respect of such relief also, is within time. Other reliefs are already within limitation.

3. Ld. Counsel for the petitioner further submitted that the impugned order dated 05.07.1995 strikes at the very root of the petition. Once it is set aside, it will not be difficult for the petitioner to get other reliefs. No departmental appeal has been filed against the order dated 05.07.1995. Ld. Counsel for the petitioner submitted that the petitioner will file departmental appeal against the said order along with application under Section 5 of Limitation Act, 1963, which is applicable to appeals and applications [may not be applicable to suits or references in this Tribunal].

4. The impugned order dated 05.07.1995 (Annexure: A-3) reads as under:

1994-95

In the year 1994 when this Constable was posted in Police Lines, Dehradun, he went on casual leave of 12 days on 02.06.1994. He did not turn up for duty on 16.06.1994. After availing casual leave, instead of joining the duty on 16.06.1994, he came to join his duty on 06.08.1994, after a gap of 52 days. In other words he remained absent from duty for 52 days. During this period, neither he informed the department nor did he move any application for leave. This act (of him) is indicative of negligence, carelessness, indolence and indiscipline, which (act of him) is censured.

Letter No.-D-60/95
Dated: 05.07.1995

(s/d)
Senior Superintendent of Police
Dehradun.

5. Ld. A.P.O. submitted that otherwise also the petitioner should have availed remedy of departmental appeal before the appellate authority

before coming to this Tribunal. According to him, claim petition, in respect of relief no. 3, is premature, inasmuch as the petitioner has not availed remedy of departmental appeal within time. Ld. A.P.O. also submitted that permission of the Tribunal for filing departmental appeal is not required. He can do it on his own.

6. Petitioner is entitled to file departmental appeal against the order of the disciplinary authority, as per law.

7 The claim petition is disposed of, at the admission stage, with the consent of Ld. Counsel for the parties, by leaving it open to the petitioner to file departmental appeal against the impugned order dated 05.07.1995 (Annexure: A-3), as per law. If such departmental appeal is filed, the appellate authority is requested to decide the same in accordance with law. No order as to costs.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MAY 15, 2024.
DEHRADUN

VM