

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

Writ Petition No. 145 (S/S) of 2020

[Reclassified and Renumbered as Claim Petition No. 05/NB/SB/2023]

Constable 173 Civil Police Umesh Singh, aged about 44 years, s/o Sri Rajendra Singh, presently posted at Police Station Lohaghat, District Champawat.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Home, Govt. of Uttarakhand, Dehradun.
2. Deputy Inspector General of Police, Kumaun, Nainital.
3. Superintendent of Police, Champawat, District Chamoli.

..... Respondents

Present: Ms. Prabha Naithani, Advocate, for the Petitioner
Sri Kishore Kumar, A.P.O., for the Respondents

JUDGEMENT

Dated: 09th July, 2024

Justice U.C. Dhyani (Oral)

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 14.12.2022 in WPSS No. 145 of 2020, Constable 173 Civil Police Umesh Singh vs. State of Uttarakhand and others, which (order) reads as under:

“Ms. Rajni, Advocate, holding brief of Mrs. Prabha Naithani, Advocate for the petitioner.

Mr. V.S. Rawat, Brief Holder for the State of Uttarakhand.

Heard learned counsel for the parties.

Petitioner was appointed as Constable in Uttarakhand Police. Presently, he is posted at Police Station Lohaghat, District Champawat.

In this writ petition, petitioner has challenged the punishment order passed against him by Senior Superintendent of Police, Champawat, as affirmed in Appeal by Deputy Inspector General of Police, Kumaon Range.

Since petitioner is a public servant, therefore, he has a remedy of approaching the Tribunal constituted under U.P. Public Service (Tribunal) Act, 1976.

In such view of matter, this Court refrains from interfering in the matter and dispose of the writ petition, with liberty to petitioner to approach the Tribunal.

Registry is directed to transmit the complete record of the present writ petition to the Tribunal forthwith. The same shall be registered as a Claim Petition and be dealt with by the Tribunal accordingly.”

2. The original record of the writ petition has been transferred to this Tribunal *vide* letter no. 77/UHC/Service Section(S/S)/ PST/ Nainital dated 03.01.2023 of the Registrar (Judicial) of the Hon'ble High Court. The same has been registered as claim petition no. 05/NB/SB/2023.
3. Petitioner Constable was given 'censure entry', as punishment *vide* order dated 08.05.2019 (Annexure No. 4).
4. Aggrieved against the order dated 08.05.2019 of the disciplinary authority, petitioner preferred departmental appeal to the appellate authority, who dismissed such departmental appeal *vide* order dated 11.10.2019 and affirmed the order of the disciplinary authority.
5. Learned Counsel for the petitioner drew attention of the Bench towards paras no. 4, 5, 6, 7, 8, 9, 10, 14, 15 of the claim petition and submitted that the petitioner wants to highlight certain factual and legal pleas and file statutory revision against the impugned orders, therefore, opportunity may be granted to him to file a statutory revision.

6. Counter affidavit has been filed Sri Lokeshwar Singh, Superintendent of Police, Champwat, in which material facts contained in the claim petition have been denied on behalf of the respondents. Learned A.P.O. submitted that the permission of the Tribunal is not required for filing statutory revision. Petitioner can do it on his own.

7. Rule 23 of the Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991 (for short, 1991 Rules), as applicable to State of Uttarakhand, reads as below:

“23. Revision-(1) An officer whose appeal has rejected by any authority subordinate to the Government is entitled to submit an application for revision to the authority next in rank above by which his appeal has been rejected within the period of three months from the date rejection of appeal. On such an application the power of revision may be exercised only when in consequent of flagrant irregularity, there appears to have been material injustice or miscarriage of justice.

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(2)

[Emphasis supplied]

8. In this context, it will be apt to reproduce order dated 24.12.2021 passed by Hon'ble High Court in WPSS No. 1451 of 2021, hereinbelow for convenience:

“As would be apparent from the scrutinization of the impugned orders, which are challenged by the petitioner in the present writ petition.

The order of punishment has been imposed upon the petitioner by the respondents authority, while exercising their powers under Uttar Pradesh Police Officers and Subordinate Rank, Rules, 1991, which has been made applicable, even after the enforcement of the Uttarakhand Police Act, 2007.

As a consequence of the set of allegations of misconduct levelled against the petitioner, by virtue of the impugned order, which has been passed while exercising the powers under Section 23 (1) (d) of the Uttarakhand Police Act, 2007, the petitioner was placed under the lowest in the cadre for a period of one year. As against the principal order of punishment passed by the Deputy Inspector General of Police, on 20.02.2021, the petitioner preferred an appeal under the Rules of 1991, which too has been dismissed.

Under the Rules of 1991, if any person is aggrieved by an appellate order, imposing the punishment for the misconduct, provided under the Rules, a provision of revision has been contemplated under Rule 23 of the Rules.

Hence, this writ petition is dismissed with the liberty left open for the petitioner to approach before the next superior authority, to the appellate authority to file a revision under Rule 23 of the Rules of 1991.”

9. The petitioner has statutory remedy to file revision under Rule 23 of the Rules of 1991, which opportunity cannot be denied to him by the Tribunal, inasmuch as, to file revision is his entitlement.

10. The claim petition thus stands disposed of, with the consent of learned Counsel for the parties, leaving it open to the petitioner to file statutory revision under Rule 23 of the Rules of 1991, as prayed for by him. Delay in filing the same is condoned in the interest of justice. No order as to costs.

11. Rival contentions are left open.

(JUSTICE U.C. DHYANI)
CHAIRMAN

DATE: 09th July, 2024
DEHRADUN
RS