

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

**WRIT PETITION NO 562(S/B) OF 2021  
[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 191/SB/2023]**

Satish Kumar Sukhija, aged about 58 years, s/o Late Sri Ram Chandra Sukhija, presently posted as Superintendent Sub Jail, Haldwani.

**.....Petitioner**

**VS.**

1. State of Uttarakhand, through its Principal Secretary, Home, Secretariat, Dehradun.
2. I.G. Jail Uttarakhand, District Jail Campus, Suddhowala, Dehradun.

**.....Respondents.**

Present: Sri Abhishek Verma & Sri Dheeraj Joshi, Advocates,  
for the petitioner. (online)  
Sri V.P.Devrani, A.P.O., for Respondents.

**JUDGMENT**

**DATED: JULY 10, 2024.**

**Justice U.C.Dhyani (Oral)**

Hon'ble High Court of Uttarakhand at Nainital, passed an order, in WPSB No. 562/2021 , Satish Kumar Sukhija vs. State of Uttarakhand and another, on 14.09.2023, as follows:

“ .....

2) By means of this Writ Petition, petitioner has challenged the punishment order dated 15.10.2018, passed by Principal Secretary, Home, Government of Uttarakhand.

(3) Since the petitioner is a public servant as defined under the Public Service Tribunal Act, 1976, therefore, he has a remedy before the Tribunal established under the said Act.

(4) Accordingly, the record of the Writ Petition is transferred to learned Tribunal with a request to Tribunal to decide it as claim petition at an early date.

(5) The Writ Petition stands disposed of accordingly.”

2. Writ Petition No. 562 (S/B) of 2021 is, accordingly, reclassified and renumbered as Claim Petition No. 191/SB/2023. Since the reference in this Tribunal shall be of the writ petition filed before the Hon’ble High Court, but shall be dealt with as claim petition, therefore, the claim petition shall be referred to as ‘petition’ and petitioner shall be referred to as ‘petitioner’, in the body of the judgment.

3. When the petitioner was Superintendent of District Jail at Haridwar, a complaint was received regarding his working. On the basis of evidence thus received, the petitioner was suspended and departmental enquiry was initiated against him. Charge-sheet was issued to him and he was directed to file his replies. Petitioner filed his replies, in which he pleaded not guilty. Disciplinary authority was not satisfied with such reply. Sri Dharmendra Singh, the then Additional Secretary, Home, Govt. of Uttarakhand, was appointed as enquiry officer, who did not find substance in the charges levelled against the petitioner.

4. The next higher authority found that the enquiry officer has not taken cognizance of certain facts. He disagreed with the same and re-enquiry was ordered under Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 (as amended in 2010) (for short, Discipline and Appeal Rules, 2003). Sri Ajay Rautela, Additional Secretary Home, Govt. of Uttarakhand, was appointed as enquiry officer, who, after due enquiry, found the petitioner partly guilty. Petitioner was found violating Paras 994 and 704 of the Jail Manual. Petitioner was supplied copy of the enquiry report. He was directed to file his reply within 15 days, which he did on 19.03.2018. Again, he pleaded innocence (not guilty). Major punishment was proposed. The Uttarakhand

Public Service Commission was consulted, who approved of the same *vide* letter dated 18.09.2018. The Principal Secretary, Home, *vide* office order dated 15.10.2018 (Annexure: 1) directed 'stoppage of three increments with cumulative effect and special adverse entry', which is under challenge in present petition.

5. The petition is supported by the affidavit of petitioner. Relevant documents have been filed along with the petition.

6. The petition has been contested on behalf of the respondents. Counter Affidavit has been filed by Sri Vijay Kumar, Deputy Secretary, Home Department, Govt. of Uttarakhand, Dehradun. Relevant documents have also been filed in support of the Counter Affidavit. Rejoinder affidavit thereto has also been filed by the petitioner.

7. Whereas Sri V.P.Devrani, Ld. A.P.O. opposed the petition and submitted, on the strength of C.A. filed on behalf of respondents, that the petition is devoid of merits and should be dismissed, Sri Dhreej Joshi, Ld. Counsel for the petitioner submitted that petitioner is innocent and has wrongly been held guilty for the misconduct which the petitioner never committed.

8. In para 31 of the petition the petitioner has mentioned that, "the punishment order passed by the disciplinary authority and appellate authority is per se illegal, unjust having been passed without application of mind, as such liable to be quashed by Hon'ble Court".

9. The reply has been given on behalf of respondents in Para 21 of the C.A., as under:

"The contents of Para 31 of this petition, are wrong, false and vehemently denied. As stated above, the impugned order dated 15.10.2018 is a reasoned and speaking order and the impugned order dated 19.06.2019 is liable to be upheld because the appeal of the petitioner is barred under Rule 11 (1) of the Rules of 2003. Since the order dated 15.10.2018 is deemed to be passed by the Governor, hence both the orders are liable to be upheld."

10. It may be noted here that the petitioner filed appeal/representation on 10.01.2019 against the impugned order dated 15.10.2018, which was held to be not maintainable in view of Rule 11(1) of the Discipline and Appeal Rules, 2003.

11. Sri Dheeraj Joshi, Ld. Counsel for the petitioner submitted that even if the appeal against the impugned order dated 15.10.2018 is not maintainable, the petitioner has remedy to file Review against the said order, inasmuch as 'material error of law occurred which has the effect of changing the nature of the case'. Ld. Counsel for the petitioner drew attention of the Bench towards the Grounds, which have been taken in the petition, to submit that the petitioner wants to file representation against the impugned order, therefore, liberty may be granted to him to file Review against the same under Rule 14 of the Discipline and Appeal Rules, 2003.

12. Rule 14 of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 reads as under:

**"14.Review--** The Governor may, at any time, either on his own motion or on the representation of the concerned Government Servant review any order passed by him under these rules, if it has brought to his notice that any new material or evidence which could not be produced or was not available at the time of passing the impugned order or any material error of law occurred which has the effect of changing the nature of the case."

*[Emphasis supplied]*

13. The petitioner can file representation against the impugned order, as of right, if any material error of law has occurred which has effect of changing the nature of case. This he can do under Rule 14 of the Discipline and Appeal Rules, 2003. Permission of the Tribunal/ Court is not required for making such representation.

14. The petition is disposed of, leaving it open to the petitioner to file representation for reviewing the impugned order dated 15.10.2018 before the appropriate authority under Rule 14 of the Uttarakhand Government

Servant (Discipline and Appeal) Rules, 2003. Delay, if any, in filing such review is condoned in the interest of justice. No order as to costs.

15. The Tribunal has not gone into the merits of the petition. Hence, the aforesaid direction may be given by Single Bench of the Tribunal. Ld. Counsel for the parties agree to such legal proposition.

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: JULY 10, 2024*  
*DEHRADUN*

VM