

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

CLAIM PETITION NO. 70/SB/2024

Sandeep Kumar Constable No. 4570, 2nd Indian Reserve Battalion, r/o Lane
No. C-15, Turner Road, Dehradun.

.....Petitioner

VS.

1. The Government of Uttarakhand through Secretary, Home, Secretariat,
Subhash Road, Dehradun.
2. The Director General of Police, Uttarakhand Police, Dehradun.
3. The Inspector General of Police, Uttarakhand Police, Dehradun.
4. The Deputy Inspector General of Police, Provincial Armed Constabulary,
Haridwar.
5. The Commandant 2nd Indian Reserve Battalion, Jhajra, Dehradun.

.....Respondents.

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

JUDGMENT

DATED: JULY 31, 2024

Justice U.C.Dhyani (Oral)

By means of present claim petition, petitioner seeks the
following reliefs:

“I. To quash the order dated 18-11-2021 passed by the disciplinary authority and order dated 5-3-2022 passed by the appellate authority. (Annexure No A-1 & A-2).

II. To pass any other suitable order, which the Hon'ble Tribunal may deem fit and proper on the basis of facts and circumstances of the case,

III. Award the cost of the petition to the petitioner.”

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

3. It has been indicated in Para 7 of the claim petition that the petitioner has right to file revision before the Additional Director General, but the same could not be filed within the period of three months from the date of receipt of order dated 05.03.2022, hence the same requires condonation. Condoning the delay in filing such revision has been prayed for.

4. Ld. Counsel for the petitioner submitted that the Hon'ble Supreme Court *vide* order dated 08.03.2021, passed in *Suo Motu* Writ Petition (CIVIL) No(s).03/2020, has extended period of limitation prescribed in law, for filing petition/ applications/ suits/ appeals/ other proceedings before any judicial/ quasi judicial forum. He further submitted that the delay in filing the revision is covered by the judgment of the Hon'ble Supreme Court dated 10 .01.2022 passed in Misc. App. No. 21 of 2022 and Misc. App. No. 29 of 2022 in Misc. App. No. 665 of 2021 in *Suo Motu* W.P. (Civil) No.(s) 03/2020.

5. Rule 23 of the Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991, 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.

.....

.....
 (2)

[Emphasis supplied]

6. 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 of 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."

[Emphasis supplied]

7. Ld. A.P.O. submitted that the petitioner is entitled to file statutory revision against the impugned orders, but there is delay in filing the same.

8. Considering the peculiar facts and circumstances, which have been mentioned in the claim petition itself, the Tribunal is of the view that the delay in filing the revision should be condoned, in the interest of justice.

9. The claim petition is disposed of, at the admission stage, with the consent of Ld. Counsel for the parties, by giving liberty to the petitioner to file statutory revision as provided under Rule 23 of the Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991. Considering the peculiar facts of the case, the delay in filing the revision is condoned in the interest of justice. In case the remedy of statutory revision is availed by the petitioner, without further loss of reasonable time, then the revision may be entertained by the competent authority, who shall make an endeavour to decide such statutory revision, as expeditiously as possible, in accordance with law.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JULY 31, 2024.
DEHRADUN

VM