

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

**Writ Petition No. 738 (S/S) of 2021**

**[Reclassified and Renumbered as Claim Petition No. 126/T/NB/SB/2022]**

CP 93 Chandan Singh, aged about 41 years, s/o late Sri Madan Singh Bisht, r/o near Sports Stadium, Khatyari, Almora, presently posted at police station-Jhiroli, district Bageshwar.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Home, Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Deputy Inspector General of Police, Kumaon Range, Nainital.
3. Senior Superintendent of Police Bageshwar.

..... Respondents

Present: Sri Yogesh Pacholia, Advocate, for the Petitioner  
Sri Kishore Kumar, A.P.O., for the Respondents

**JUDGEMENT**

**Dated: 16<sup>th</sup> August, 2024**

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

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 05.09.2022 in WPSS No. 738 of 2021, Baal Sugriv Singh vs. State of Uttarakhand and others, which (order) reads as under:

"Mr. Yogesh Pacholia, Advocate, for the petitioner.

Mr. Narayan Datt, Brief Holder, for the State/respondents.

Petitioner is a Constable of Police. Vide order dated 22.9.2020, he was awarded minor penalty of censure by the Superintendent of Police, Bageshwar. Petitioner challenged the said order by filing a departmental appeal. However, vide order dated 16.2.2021, his departmental appeal was dismissed by the Inspector General of Police, Kumaon Range, Nainital. Feeling aggrieved by these two orders, petitioner has approached this Court.

Learned State Counsel has raised a preliminary objection that since petitioner is a public servant, therefore, he has a remedy of approaching Tribunal constituted under the U.P. Public Service (Tribunals) Act, 1976.

Learned Counsel for the petitioner does not dispute the submission put forth by learned State Counsel.

Since petitioner has statutory remedy of approaching the Tribunal constituted under the aforesaid Act, therefore, writ petition is dismissed on the ground of alternative remedy.

Registry is directed to transmit the record of this case to the Public Services Tribunal, Dehradun. Before sending the record, Registry shall prepare the photocopy of the record at the cost of petitioner.”

2. The original record of the writ petition has been transferred to this Tribunal *vide* letter no. 13575/UHC/Service (S/B) 2022 dated 22.09.2022 of the Registrar (Judicial) of the Hon’ble High Court. The same has been registered as claim petition no. 126/T/NB/SB/2022.

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

“(i) Issue a writ, rule or direction in the nature of certiorari, calling for records and for quashing the enquiry report dated 08.06.2020, and the punishment order dated 22.09.2020 passed by S.P. Bageshwar, whereby the S.P. Bageshwar punished with a penalty of reprimand of conduct of petitioner.

(ii) Issue a writ, rule or direction in the nature of certiorari, calling for records and for quashing the order dated 16.02.2021 passed by I.G. Kumaon Range, Nainital, whereby he had rejected the departmental appeal of petitioner.

(iii) Issue a writ rule or direction in the nature of mandamus directing the respondents to not to record the Impugned order in the Service record and not to treat impugned order as impediment in the service carrier of petitioner and pay all the service benefit including promotion to the petitioner, as was being paid to petitioner, prior to issuance of Impugned order.

(iv) Issue any other writ rule or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case, keeping in view the facts highlighted in the body of the petition.

(v) Award cost of the petition.”

4. Petitioner has filed affidavit in support of his petition. Relevant documents have been filed with the petition.

5. The petition has been contested on behalf of the respondents. Sri Amit Srivastava, Superintendent of Police, District Bageshwar, has filed counter affidavit on behalf of respondent no.3 along with relevant documents.

6. Rejoinder affidavit thereto has also been filed by the petitioner reiterating the facts contained in the claim petition.

7. Sri Yogesh Pacholia, learned Counsel for the petitioner submitted that enquiry has been conducted against the petitioner without following the procedure established by law (para 9 of the petition); show cause notice was issued to the petitioner without supplying a copy of enquiry report to him (para 10 of the petition); disciplinary authority, without considering reply of the petitioner, punished the petitioner *vide* order 22.09.2020 (para 12 of the petition); I.G., Kumaun Range, Nainital (appellate authority) summarily rejected the objections of the petitioner and confirmed the order of disciplinary authority, S.P., Bageshwar (para 15 of the petition); there is no evidence on record to prove the guilt of the petitioner; G.D. entries of P.S., Kotwali, Bageshwar, proves that on the relevant date and time, the petitioner was present on duty (para 16 of the petition); and that the orders under challenge suffer from illegality and are liable to be set aside.

8. Learned Counsel for the petitioner further submitted that the petitioner wants to highlight and bring the above-noted factual and legal aspects of the case before the revisional authority, therefore, liberty may be granted to the petitioner to file statutory revision.

9. 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.

.....

.....

(2) .....

*[Emphasis supplied]*

10. 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.”

11. Sri Kishore Kumar, learned A.P.O., submitted that the petitioner is entitled to file statutory revision. Liberty of the Tribunal is not required for the same.

12. Petition is disposed of, by leaving it open to the petitioner to file statutory revision against impugned orders dated 22.09.2020 and 16.02.2021 before the authority concerned. Since the litigation was pending before the Hon'ble High Court and this Tribunal, therefore, delay in filing statutory revision is condoned, in the interest of justice. If the statutory revision is filed by the petitioner within

reasonable time, revisional authority is requested to decide the same, on merits, in accordance with law. No order as to costs.

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

*DATE: 16<sup>th</sup> August, 2024*  
*DEHRADUN*  
*RS*