

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

CLAIM PETITION NO. 91/SB/2024

Kumari Kavita Barthwal, d/o Sri Roshan Barthwal, aged about 31 years, presently posted as Sub-Inspector, Police Station Narendra Nagar, Tehri Garhwal.

.....Petitioner

VS.

1. State of Uttarakhand through Secretary, Home, Government of Uttarakhand, Dehradun.
2. The Inspector General of Police, Garhwal Region, Uttarakhand, Dehradun.
3. Senior Superintendent of Police, District Tehri Garhwal, Uttarakhand.

.....Respondents.

Present: Sri Abhishek Chamoli, Advocate, for the petitioner.(online)
Sri V.P.Devrani, A.P.O., for the Respondents.

JUDGMENT

DATED: SEPTEMBER 13, 2024

Justice U.C.Dhyani (Oral)

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

“(i). To quash and set aside impugned order dated 01.05.2023, passed by Respondent No.3, by which ‘Censure Entry’ was awarded in the service record of the petitioner arbitrarily and illegally, had it

been the impugned order was never being in existence, after calling entire record from the respondents, keeping in view of the facts highlighted in the body of the petition.

(ii). To quash and set aside impugned appellate order dated 22.03.2024, by which departmental appeal of the petitioner was rejected by Respondent No.2.

(iii) To issue any other order or direction which this Court may deem fit and proper in the circumstances of this case, in favour of the petitioner.

(iv). To award the cost of the petition.”

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

3. Punishment order dated 01.05.2023 (Annexure: A-1) passed by the Respondent No.3, whereby petitioner was awarded ‘censure entry’ and appellate order dated 22.03.2024 (Annexure: A-2) passed by the Respondent No.2, are under challenge in present claim petition.

4. Ld. Counsel for the petitioner submitted that proper opportunity of hearing was not given to the petitioner before passing the impugned orders.

5. Ld. Counsel for the petitioner drew attention of the Tribunal towards grounds 5.1 to 5.11, taken in the claim petition, to submit that the petitioner wants to file revision against the impugned orders to highlight these points before the revisional authority, therefore, liberty may be granted to the petitioner to file statutory revision. The Tribunal need not reproduce those grounds, for, they are already part of record.

6. In reply, Ld. A.P.O. submitted that permission of the Tribunal is not required for filing statutory revision. Petitioner can do it on her own. It is her entitlement.

7. 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]

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 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]

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

10. The petition thus stands disposed of , leaving it open to the petitioner to file statutory revision under Rule 23 of the Rules of 1991, as prayed for by her. No order as to costs.

11. Rival contentions are left open.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: SEPTEMBER 13, 2024.
DEHRADUN

VM