

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

**CLAIM PETITION NO. 93/SB/2023**

Bharat Singh Kunwar, s/o Sri Kishan Singh Kunwar, presently posted as Constable at Police Line, Ratura, Rudraprayag.

...Petitioner

**vs.**

1. State of Uttarakhand through Secretary, Home, Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Inspector General of Police, Garhwal Region, Police H.Q. Subhash Road, Dehradun, Uttarakhand.
3. Superintendent of Police, District Rudraprayag, S.P. Office, Rudraprayag, Uttarakhand.

...Respondents

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

**JUDGMENT**

**DATED: SEPTEMBER 17, 2023**

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

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

“(i) To quash and set aside Impugned Order dated 17.10.2022 of 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 09.10.2023 of respondent no. 2 by which Departmental Appeal of the petitioner was rejected by the 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 the favour of the petitioner.

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

2. Petitioner, a Constable in Uttarakhand Police, was awarded with censure entry in his service record *vide* order dated 17.10.2022 by Respondent No.3 (Copy: Annexure- A 1).

3. Petitioner filed a departmental appeal against the impugned order of censure entry, which departmental appeal was rejected by the Inspector General of Police, Garhwal Region, Respondent No.2, on the ground that the departmental appeal has not been filed within the prescribed period as per the Uttarakhand Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991 and the same is time barred. (Copy: Annexure: A-2). Both these orders are under challenge in the present claim petition.

4. Ld. Counsel for the petitioner prayed that the appellate authority may kindly be directed to decide the appeal of the petitioner, on merits, in accordance with law.

5. Ld. A.P.O. argued that the disciplinary authority passed the order on 17.10.2022. Departmental appeal against the same, was filed by the petitioner on 04.08.2023. In normal course, the departmental appeal should have been filed within 90 days from the date of communication of punishment order, which has not been done in the instant case.

6. The Rules provide that the delay in filing the departmental appeal may be condoned, for sufficient reasons, by the appellate authority itself. Otherwise also Section 5 of the Limitation Act, 1963 applies to Applications and Appeals. Instead of deciding the departmental appeal on merits, the same has been held to be not maintainable. As far as possible, every *lis* should be decided on merits, unless one continues to sleep over his/her rights.

7. This Tribunal observes that the delay in filing the departmental appeal should be condoned, in the peculiar facts of the case and in the interest of justice.

8. The claim petition is disposed of, at the admission stage, by directing the appellate authority to decide the departmental appeal of the petitioner, on merits, after condoning the delay in filing the departmental appeal.

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

*DATE: SEPTEMBER 17, 2024*  
*DEHRADUN*

*VM*