

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

Present: Hon'ble Mr. Capt. Alok Shekhar Tiwari

----- Member (A)

Claim Petition No. 161/NB/SB/2023

Head Constable 17 Armed Police Jot Singh (Male, aged about 44 years)  
S/o Late Shri Tara Singh, P/o Agra Khal, Chald Gaon, Tehri Garhwal,  
Uttarakhand-249175

Presently posted as Head Constable (Promoted) 17 Armed Police Reserve  
Police Line, Pithoragarh

..... Petitioner

Versus

1. State of Uttarakhand, through Secretary (Home), District Dehradun
2. Deputy Inspector General of Police, Kumaon Range, Nainital
3. Superintendent of Police, District Pithoragarh
4. Deputy Superintendent of Police, Dharchula, Pithoragarh

..... Respondents

Present : Sri Ajay Joshi & Sri R. K. Chauhan, Advocates  
for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondents.

**JUDGMENT**

DATED : **02.09.2024**

This claim petition has been filed seeking the following reliefs:-

- “A. To quash the preliminary enquiry report dated 17.08.2022 conducted by Deputy Superintendent of Police, Dharchula, District Pithoragarh, order dated 13.10.2022 passed by Superintendent of Police,

Pithoragarh and order dated 02.11.2023 passed by Deputy Inspector General of Police, Kumaon Range, Nainital in the Appeal No. 34/2022 whereby the petitioner has been awarded “censure entry”. (Annexure 1, 2 and 3 respectively)

- B. To pass any appropriate order as learned Tribunal may please to think fit and proper according to facts, reasons and circumstances of the case.
- C. To allow the petition with cost.”

2. In brief, the facts of the case are that the petitioner is posted as Head Constable in Armed Police Reserve Police Lines, Pithoragarh since 13.10.2019. On 19.04.2022, the petitioner was posted as Guard Commander at Treasury Guard, Pithoragarh. During the night zonal checking at around 11:40 Deputy Superintendent of Police found Constable 128 Armed Police Pushkar Ram was lying unconscious in a bed outside the guard room and did not wake up even after making several attempts; additionally rifle was also not found with him and thereafter, the petitioner was called and the rifle of Constable 128 Armed Police Pushkar Ram was with the petitioner. Thereafter, Constable 128 Armed Police Pushkar Ram was taken for medical examination and it was found that he had consumed alcohol and was under intoxication. The petitioner, being the Guard Commander at the Sentry duty at Treasury, was found guilty of indiscipline, negligence and dereliction of duty for the reason that Constable 128 Armed Police Pushkar Ram who was on Guard duty under the command of the petitioner had consumed alcohol; his rifle was found with the petitioner who had not reported the matter to the senior officials in this regard. On the night of 19.04.2022 Constable 128 Armed Police

Pushkar Ram joined his guard duty, but later on reported to the petitioner stating that he is having a mild headache, so the petitioner may keep the rifle with him for some time. The petitioner on assessing the health of Constable 128 Armed Police Pushkar Ram with due diligence and best of his decision-making ability felt him to be in a state to fulfill his duty obligations effectively and kept his rifle with him. Thereafter, the petitioner went back to his guard room and took the medication for his bone TB disease and due to the influence of dosage of medicines the petitioner felt asleep for a short period of time. It is pertinent to mention here that last time when the petitioner met Constable 128 Armed Police Pushkar Ram he had not consumed alcohol and later his rifle was kept by the petitioner in good faith and to best of his decision making. On 21.04.2022, the petitioner was suspended by the office of D.S.P., Pithoragarh. After suspension of the petitioner, his salary allowances were also deducted as a part of punishment and now, "censure" has been awarded to the petitioner. On the above incident, after preliminary enquiry, the report of preliminary inquiry was submitted to respondent No. 3 by respondent No. 4 vide letter dated 17.08.2022 (Annexure No. 1). Thereafter, a show-cause notice dated 26.08.2022 (Annexure No. 4) was served upon the petitioner to which the petitioner submitted his explanation vide letter dated 09.09.2022 (Annexure No. 5).

3. On the basis of preliminary inquiry report dated 17.08.2022 the respondent No. 3 passed an order dated 13.10.2022 (Annexure No. 2) whereby the petitioner was awarded censure entry. The order dated 13.10.2022 was challenged by the petitioner before the appellate authority, who also failed to consider the grounds raised by the petitioner and

dismissed the appeal filed by the petitioner vide its order dated 02.11.2023(Annexure No. 3).

4. Being aggrieved with the order dated 13.10.2022 passed by the respondent No. 3, the petitioner filed an appeal before the respondent No. 2 on 17.10.2022 (Annexure No. 6). The appellate authority failed to consider the grounds raised by the petitioner and dismissed the appeal filed by the petitioner vide its order dated 02.11.2023. Hence, the claim petition.

5. Counter affidavit has been filed by the respondents stating therein that impugned orders dated 13.10.2022 passed by Superintendent of Police, Pithoragarh (Respondent No. 3) and 02.11.2023 passed by Deputy Inspector General of Police, Kumaon Range, Nainital (Respondent No. 2) is correct and were justified. Hence, this present claim petition has been filed by the petitioner is liable to be dismissed.

6. The counter affidavit states the same turn of events as mentioned in the petition. The counter affidavit does not contradict any factual claim of the petitioner, except for the prayer of the petition. As per the counter affidavit, the enquiry report dated 17.08.2022 and the orders in question dated 13.10.2022 and 02.11.2023 have been passed perfectly in accordance with the law and, therefore, the petitioner's appeal has been rejected, having been found without substance.

7. During the arguments, the learned Counsel for the petitioner has emphasized specially on two points, i.e., firstly, the multiplicity of

punishment and secondly, the orders in question having been passed in non-speaking manner.

8. Learned A.P.O. in his arguments countered the abovementioned points and emphasized that the petitioner is misleading the Court and there is no multiplicity of punishment or non-speaking orders as well.

9. Rejoinder affidavit has also been filed reiterating the facts mentioned in the present claim petition.

10. I have heard the learned Counsel for the parties and perused the records.

11. The facts for legal consideration are as follows:-

- (a). The petitioner was an important Guard Commander for the District Treasury and had served a sufficiently long police service to comprehend the gravity of the guard duty and the duty of the Guard Commander as well,
- (b) The defaulter guard, Constable 128 Armed Police Pushkar Ram, was petitioner's immediate junior on the guard duty and was duty bound to follow the commands of his Guard Commander, the petitioner. Also he must have been knowing that the guard duty at the District Treasury is one of the most sensitive sentry duties,
- (c) The petitioner as the Guard Commander was fully accountable for every act of commission or omission by his subordinate guards,

- (d) Sleeping during the guard duty or consumption of liquor on duty is an unpardonable offence. Being careless about the duty weapon, i.e., the rifle is a very serious offence as per the Police Regulations.
- (e) The duty of the Guard Commander was that a sick person or a drunken person should have been immediately removed from the Guard duty, and the matter should have been reported urgently to the superior officers. The duty weapon, i.e., the rifle should have been taken into his custody in writing and the entire episode should have been mentioned in his report,
- (f) Suspension pending enquiry against the defaulter and the petitioner was done as per the law. Also this does not fall under the ambit of punishment,
- (g) Dereliction of duty is a serious offence which definitely would throw its shadows upon the career development of the employee in question. However, the arguments by the learned Counsel for the petitioner are erroneous on this count, because censure award has its limited time frame effects upon the petitioner's future promotion. Nevertheless it does not bar the promotion permanently.
- (h) The police force without discipline or accountability towards duty is as good as nothing, therefore, award of censure is very much in accordance with law in this case.

11. In the entire departmental proceedings, there is no multiplicity of punishment. The enquiry report dated 17.08.2022 and the impugned orders dated 13.10.2022 and 02.11.2023 in

question also are very much speaking orders in detail. Therefore, the claim petition is devoid of merit and is liable to be dismissed accordingly.

**ORDER**

Accordingly, the petition is dismissed. No order as to costs.

**(Capt. Alok Shekhar Tiwari)**  
Member (A)

*DATE: SEPTEMBER 02, 2024*  
*NAINITAL*  
*BK*