

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

Writ Petition No. 2365 (S/S) of 2022

[Reclassified and Renumbered as Claim Petition No. 11/NB/SB/2023]

Sri Trilok Chandra Arya, aged about 49 years, s/o Sri Gusain Ram Arya, r/o Village Ganjali, P.O. Chirang, Bageshwar, District-Bageshwar, serving as Head Bandi Rakshak (Jail Head Warder), Sub Jail, Haldwani, District Nainital.

.....Petitioner

versus

1. The State of Uttarakhand through Secretary, Jail Department, Civil Secretariat, Dehradun.
2. Uttarakhand Public Service Commission, Gurukul Kangri, Haridwar, District Haridwar-249404 through its Secretary.
3. Inspector General of Prisons, Uttarakhand, Dehradun.
4. Additional Inspector General of Prisons, Uttarakhand, Dehradun.
5. The Superintendent of Sub-Jail Haldwani, District Nainital.
6. Sri Manoj Kumar Arya, Senior Superintendent of District Jail, Haridwar, District Haridwar.
7. Sri Somdev Singh, promoted as Deputy Jailer of District Jail, Tehri Garhwal.
8. Sri Kunwar Pal Singh, promoted as Deputy Jailer of District Jail, Chamoli.
9. Sri Rameshwar Singh Rana, promoted as Deputy Jailer of District Jail, Tehri Garhwal.
10. Sri Naseem Abbas, promoted as Deputy Jailer of District Jail, Haridwar.
11. Sri Daulat Singh Rana, promoted as Deputy Jailer of District Jail, Dehradun.

..... Respondents

Present: Sri Deep Chandra, Advocate, for the Petitioner
Sri Kishore Kumar, A.P.O. for Respondents
No. 1, 3, 4 & 5
Sri Ashish Joshi, Advocate, for Respondent No. 2
*None for the private respondents no. 6 to 11 despite
service of notices.*

Judgement

Dated: 15th October, 2024

Justice U.C. Dhyani (Oral)

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 15.12.2022 in WPSS No. 2365 of 2022, Trilok Chandra Arya vs. State of Uttarakhand and others, which (order) reads as under:

“Mr. Anant Dhaka, Advocate for petitioner.

Mr. P.C. Bisht, Addl. C.S.C. for the State.

Mr. Ashish Joshi, Advocate for respondent no. 2.

Petitioner is a public servant, therefore, he has a remedy before the Tribunal established under U.P. Public Service (Tribunals) Act, 1976.

Since petitioner has a statutory remedy of approaching the Uttarakhand Public Services Tribunal, constituted under the aforesaid Act, therefore, writ petition is dismissed on the ground of alternative remedy with a request to learned Tribunal to decide the case on merits.

Registry is directed to transmit complete record of this case to learned Tribunal, after keeping photocopy thereof on record, to be supplied by learned counsel for the petitioner, in the file.”

2. The original record of the writ petition has been transferred to this Tribunal *vide* letter no. 523/UHC/Service Section (S/S)/ PST/ Nainital dated 09.01.2023 of the Registrar (Judicial) of the Hon'ble High Court. The same has been registered as claim petition no. 11/NB/SB/2023.

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

“(i) Issue a writ, order or direction in the nature of certiorari, calling for the original record and to quash the impugned order dated 24.08.2022 (Annexure-2) passed by the respondent no. 4 (Additional I.G. Prisons, Uttarakhand) along with the entire promotional exercise carried out by the DPC vide order dated 03-03-2022& 04-03-2022 (Annexure-16) constituted by the respondent no. 2 for making promotions on the post of Deputy Jailer as well as the subsequent letter dated 11-03-2022 (Annexure-17) issued by the respondent no. 2 to the state government respectively.

(ii) Issue a writ, order or direction in the nature of mandamus, directing and commanding the respondents to upgrade the ACR Entries of the petitioner for the year 2010-11 to 2020-21 respectively from good/unsatisfactory category to very good category and further be pleased to direct the respondents to the effect that while considering his case for promotion on the post of Deputy Jailer not to consider his non communicated entries of aforesaid period.

(iii) Issue a writ, order or direction in the nature of mandamus, directing and commanding the respondents to carry out promotional exercise afresh on the post of Deputy Jailer in respondent department after declaring the petitioner eligible for promotion and also consider his claim for promotion on the post of Deputy Jailer.

(iv) Or pass any other writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

(v) Award the cost of writ petition.”

4. Petitioner served as Head Jail Warder in sub-jail Haldwani, district Nainital. According to him, adverse entries for certain reporting years were communicated to him, together, against which he has made representation to Inspector General, Prisons, Uttarakhand. When the said representation was not decided, petitioner filed writ petition being WPSS No. 1227 of 2022, Trilok Chandra Arya vs. State of Uttarakhand and others, which was disposed of by the Hon'ble High Court *vide* order dated 05.07.2022 by directing the Inspector General, Prisons, to consider petitioner's representation and take decision as per law.

4.1 The representation was decided by Additional Inspector General, Prisons, Uttarakhand, *vide* office memorandum dated 24.08.2022. Aggrieved with the same, petitioner has filed present petition.

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

6. The petition has been contested on behalf of the respondents. Sri Pramod Kumar, In-charge Superintendent Sub-Jail, Haldwani, has filed counter affidavit on behalf of respondents no. 1, 3, 4 and 5. Relevant documents have been filed with the counter affidavit.

6.1 It has been stated in the C.A. that annual confidential remarks of the petitioner were communicated to him. The same were considered at the time of promotion. Petitioner filed representation against the same. The representation was disposed of as per Uttarakhand Government Servants (Disposal of Representation against Adverse Annual Confidential Reports and Allied Matters) Rules, 2002, which were amended in the year 2015 (in short, 'Rules of 2015'), by the competent authority/ respondent no. 3.

7. Sri Ashish Joshi, learned Counsel for Uttarakhand Public Service Commission (respondent no. 2) has adopted the C.A. filed on behalf of respondents no. 1, 3, 4 and 5.

8. G.O. No. 1712/ *karmik-2/2003* dated 18.12.2003 has been issued by the Govt. in the Personnel Department to all the Principal Secretaries, HODs, Commissioners and District Magistrates regarding disposal of representations against Annual Confidential Remarks, Adverse Entries etc. This is a detailed G.O., which encompasses within its orbit, anything and everything, which relates to ACRs, withholding integrity, adverse entries, communication thereof, representation against them and procedure of disposal of representations.

9. In para 22 of G.O. dated 18.12.2003, there is a stipulation that Memorial may be presented to the Govt. As per Rules of 2015, downgraded entries are also treated as adverse for promotion and financial benefits of a Govt. servant.

10. Learned Counsel for the petitioner, therefore, submitted that he may be given liberty to present the Memorial to the Govt. in Home Department.

11. Learned Counsel for the petitioner submitted that the petitioner wants to highlight the grounds taken in the petition to assail the findings given by the authorities below for securing the relief, which he has prayed for through present petition.

12. Learned A.P.O. has no objection if liberty is granted to the petitioner to present the Memorial to the Govt. in Home Department, in the interest of justice.

13. The petition is disposed of by granting liberty to the petitioner to present Memorial to the Govt. in Home Department (Principal Secretary/ Secretary, Home) for redressal of his grievances. Delay, if any, in filing the same is condoned, in the interest of justice. If any representation/ Memorial is filed by the petitioner before Principal Secretary/ Secretary, Home, Govt. of Uttarakhand, within reasonable time, then, Principal Secretary/ Secretary, Home, is requested to decide such representation/ Memorial as expeditiously as possible, in accordance with law.

No order as to costs.

Rival contentions are left open.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: 15th October, 2024
DEHRADUN
RS