

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

Present: Hon'ble Mr. Justice U.C. Dhyani

----- Chairman

Hon'ble Mr. A.S. Rawat

----- Vice Chairman (A)

CLAIM PETITION NO. 148/DB/2023

Sri Madan Singh Rawat, aged about 59 years, s/o late Sri I.S. Rawat, presently posted as Deputy Director of Education, Uttarakhand, Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Secondary Education, Govt. of Uttarakhand, Dehradun.
2. Director General, School Education, Uttarakhand, Dehradun.
3. Director, Secondary Education, Uttarakhand, Dehradun.
4. District Magistrate, Pauri Garhwal.
5. District Development Officer, Pauri, District Pauri Garhwal.

..... Respondents

Present: Sri Madan Singh Rawat, petitioner in person
Sri V.P. Devrani, A.P.O. for the respondents

JUDGEMENT

Dated: 05th December, 2024

Justice U.C. Dhyani (Oral)

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

“(i) To set aside the impugned order dated 22.12.2022 passed by the respondent no. 1 (Annexure-A), vide which the petitioner has demoted/ downgraded from the post of Joint Director, SCERT to the post of Deputy Director of Education.

(ii) To direct the respondents to reinstate the petitioner on the post of Joint Director, SCERT, Uttarakhand.

(iii) To pass other order or direction, which this Hon’ble Tribunal may deem fit and proper in the circumstances of the case.

(iv) Award the cost of the petition in favour of the applicant.”

2. Brief facts giving rise to present claim petition are as follows:

2.1 One Sri Pooran Singh Negi, Former Manager, Janta Inter College, Jodimandi, Pauri, filed complaints dated 07.03.2019 and 16.07.2019 raising the issue of commission of irregularities by Chief Education Officer, Pauri, in purchase of e-learning (Smart Class) articles for schools situated in Chaubattakhal under MLA Fund.

2.2 Talking cognizance of the said complaints, Chief Development Officer, Pauri, constituted a three-member committee to inquire into the matter. The committee submitted its report on 22.06.2020 in the office of District Magistrate, Pauri.

2.3 Thereafter, petitioner was served show-cause notice dated 22.07.2020 by District Magistrate, Pauri. Petitioner submitted his reply on 27.07.2020. After considering the reply of the petitioner, District Magistrate, Pauri, was of the view that since petitioner was nominated as executing agency for purchase of e-learning (Smart Class) articles, therefore, he was bound to follow the provisions of Uttarakhand Procurement Rules, 2017, while dealing the said purchase. Thereafter, District Magistrate, Pauri, referred the matter to the State Govt. for necessary action.

2.4 After examining all the facts, a decision was taken at the State Govt. level to award punishment to the petitioner by demoting the petitioner to the lower post i.e. from Joint Director to Deputy

Director. A letter to this effect was sent to Uttarakhand Public Service Commission, who granted its approval after which the impugned order dated 22.12.2022 was passed by the respondent no. 1.

Hence, this petition.

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

4. Claim Petition has been contested on behalf of the respondents. Sri J.L. Sharma, Joint Secretary, Secondary Education, Govt. of Uttarakhand, has filed counter affidavit on behalf of respondent no. 1 along with relevant documents.

5. It is a case of reduction in rank. Petitioner was given major punishment of reduction in rank. He was demoted from the post of Joint Director to Deputy Director. Public Service Commission was consulted before giving this punishment. Allegation, basically, is that the petitioner violated Uttarakhand Procurement Rules, 2017. Office order dated 22.12.2022 issued by the Secretary, Secondary Education, Govt. of Uttarakhand, is in the teeth of present claim petition. Details have been given in the impugned order itself. The Tribunal does not feel it necessary to reproduce the contents of the entire order, for they are part of record.

6. Sri Madan Singh Rawat (petitioner), who has appeared in person, submitted that there are several glaring omissions in the show-cause notice, inquiry and in the punishment order. Neither the inquiry officer (Committee) nor the appointing authority has considered the vital points necessary for arriving at the truth, therefore, the same has resulted into miscarriage of justice. It is also the submission of petitioner that if all the points, which the petitioner took while replying the show-cause notice and charge-sheet coupled with the grounds taken in the claim petition be considered, he would not have to face such hardship. Petitioner has retired on 31.10.2024.

7. Petitioner, therefore, submitted that he may be granted liberty to file the review application before the competent authority, who should be directed to consider his submissions in a sympathetic manner.

8. Rule 14 of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 (as amended in 2010) (for short, 'Rules of 2003') reads as below:

14. Review— The Governor may, at any time, either on his own motion or on the representation of the concerned Government Servant review any order passed by him under these rules, if it has brought to his notice that any new material or evidence which could not be produced or was not available at the time of passing the impugned order or any material error of law occurred which has the effect of changing the nature of the case.

[Emphasis Supplied]

9. It is the submission of learned A.P.O. that it is always open to the delinquent petitioner to file representation for reviewing any order passed against him, under Rule 14 of the Rules of 2003.

10. Thus, according to the aforesaid Rule, the Govt. servant is entitled to file representation for reviewing any order passed against him, if any material error of law occurred which has the effect of changing the nature of the case.

11. Petitioner should be granted liberty to make the representation against the impugned order to the competent authority under Rule 14 of the Rules of 2003. Delay, if any, in filing the same should be condoned.

12. The claim petition is disposed of, with the consent of the petitioner and learned A.P.O., by granting liberty to the petitioner to make representation to the competent authority for reviewing the impugned order, under Rule 14 of the Rules of 2003. Delay, if any, in filing the same is condoned. If the review application is filed by

the delinquent petitioner, within reasonable time, the competent authority is requested to decide the same as expeditiously as possible, in accordance with law.

13. Rival contentions are left open.

(A.S. RAWAT)
VICE CHAIRMAN (A)

(JUSTICE U.C. DHYANI)
CHAIRMAN

DATE: 05th December, 2024
DEHRADUN
RS