

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

CLAIM PETITION NO. 182/SB/2024

Arvind Kumar, aged about 34 years, Constable, 46 BN PAC, posted in Police Line, Dehradun, s/o late Sri Subhash Kumar, village-Harchandpur, Thana Manglore, Post Gurukul Narsan, Haridwar.

.....Petitioner

versus

1. The Secretary, Home Department, Government of Uttarakhand, Dehradun.
2. The Additional Director General, Uttarakhand Police, Dehradun.
3. The Inspector General of Police, Provincial Armed Constabulary, Jakhan, Dehradun.
4. The Deputy Inspector General of Police, Provincial Armed Constabulary, at 40 BN PAC Headquarters, Haridwar.
5. The Commandant, 46 BN, PAC, Rudrapur.

..... Respondents

Present: Sri Uttam Singh, Advocate, for the petitioner
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 condone the delay and allow the petitioner to file revision petition before the Revisional Authority against the punishment of ‘Censure’ dated 30.07.2020 and rejection of appeal dated 24.03.2021 (Annexure No. A-6 & A-9).

(ii) To direct the respondent revisional authority to call the records and set aside the punishment of Censure awarded on 12-10-2020 under revisionary power as dual punishment has been awarded for the same cause of action/alleged medical leave. (Annexure No A- 7).

(iii) To set aside the order dated 30-7-2020, 12-10-2020 and direct the respondent/disciplinary authority to take fresh decision on the question whether the incident was occurred arising out of employment or otherwise and on the outcome of the decision, to regularize the medical rest period in duty or leave. (Annexure No A-5 & A-8).

(iv) To direct the respondent/Commandant to pay the full salary for the suspension period 13.12.2019 to 14.01.2020.

(v) Any other relief the Hon'ble Tribunal may deem fit in the circumstances of the case.

(vi) Award the cost of the petition to the petitioner.”

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

3. It is the submission of learned Counsel for the petitioner that the order passed by the disciplinary authority on 30.07.2020 was affirmed by the appellate authority on 24.03.2021, against which the petitioner wants to file revision before the Revisional Authority. Petitioner may be permitted to file the revision and delay, if any, in filing the same be condoned.

4. Learned A.P.O. has no objection to such innocuous prayer of learned Counsel for the petitioner.

5. Claim petition in respect of other reliefs is permitted to be withdrawn with liberty to file fresh claim petition in respect thereof.

6. Rule 23 of the Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991 (for short, 1991 Rules), 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]

7. 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 and 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]

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

9. The claim petition thus stands disposed of, at the admission stage, with the consent of learned Counsel for the parties, leaving it open to the petitioner to file statutory revision

under Rule 23 of the Rules of 1991, as prayed for by him. Delay in filing the same is condoned in the interest of justice. If statutory revision is filed by the petitioner within reasonable time, the same may be entertained and decided by the competent authority, as per law. No order as to costs.

10. Rival contentions are left open.

(JUSTICE U.C. DHYANI)
CHAIRMAN

DATE: 05th December, 2024
DEHRADUN
RS