

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

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

----- Member (A)

Claim Petition No. 64/NB/SB/2021

Constable 211/143 Civil Police Harendra Singh, aged about 42 years (Male), S/o Shri Puran Singh Mehra, presently posted at Kotwali Pithoragarh, District Pithoragarh

..... Petitioner

Versus

1. State of Uttarakhand, through Secretary, Home Affairs, Civil Secretariat, Dehradun
2. Director General of Police, Uttarakhand, Dehradun
3. Deputy Inspector General of Police, Kumaon Regional, Nainital
4. Senior Superintendent of Police Udham Singh, District Udham Singh Nagar

..... Respondents

Present : Sri Mohit Kumar, Advocate for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondents

**JUDGMENT**

**DATED : DECEMBER 03, 2024**

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

- “a). to set aside the impugned order dated 12.06.2020 passed by respondent No. 4 (contained as Annexure No. 1 to this petition) and impugned order dated 30.12.2020 passed by respondent no. 3 (contained as Annexure No. 2 to this petition) (which was received to the petitioner on

07.03.2021) whereby the departmental appeal preferred by the petitioner has been dismissed.

- b). to issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case,
- c). award cost of the petition.”

2. In brief, the facts of the case are that in the year 2019, when the petitioner was posted at Chowki Kalkatta Farm, Police Station Kichha, District Udham Singh Nagar, one patta of stone crusher was allotted to Smt. Surendra Kaur by the State Government and thereafter, allegedly with collusion of her husband Shri Balvinder Singh @ Dimple she began illegal mining in the aforesaid area. On 08.06.2019 S.O.G. Team inspected the said mining area and seized 23 trucks and one tractor under the provisions against illegal Mining and also under Sections of Motor Vehicle Act. Thereafter, vide order dated 08.06.2019, the petitioner was attached at Reserve Police Lines Rudrapur, District Udham Singh Nagar and also directed to submit his reply within a period of seven days from the date of receiving of the said order. Thereafter, the Inquiry Officer summoned the petitioner for recording his statement. The petitioner requested the Inquiry Officer to allow him to submit a written statement and also prayed for his written statement to be made part and parcel of the enquiry, but the Inquiry Officer rejected the said request of the petitioner.

3. Later on, the Deputy Director (Mining) alongwith a police team inspected the stone crusher and it was found that there is no anomaly in the stone crusher of Surendra Kaur. He also submitted his report to that effect before Sub-Divisional Magistrate, Kichha dated 02.07.2019 (Annexure No. 3 to the claim petition).

4. Inquiry Officer, after conducting the enquiry, submitted the enquiry report dated 31.12.2019 (Annexure No. 4 to the claim petition) before the respondent No. 4. After receiving the enquiry report dated 31.12.2019 the respondent No. 4 gave a show-cause notice dated 29.01.2020 to the petitioner (Annexure No. 5 to the claim petition). After receiving the show-cause notice, the petitioner, accordingly, replied the same vide reply dated 29.02.2020 (Annexure No. 6 to the claim petition) and denied all the allegations levelled against him and also stated that he was not involved in any kind of illegal mining activities. The respondent No. 4 without considering the reply of show-cause notice and without going through the material evidence available on record punished the petitioner vide impugned order dated 12.06.2020 (Annexure No. 7 to the claim petition) by awarding a censure entry in the character-roll of the petitioner, under the provisions of Rule 14 (2) of Uttarakhand (U.P. Police Officers of the Subordinate Rank (Punishment and Appeal) Rules, 1991 Adaptation and Modification Order.

5. Feeling aggrieved from the punishment order dated 12.06.2020, the petitioner preferred a departmental appeal before the respondent No. 3 in which he has taken various grounds and also prayed for that the entire service career of the petitioner is unblemished and there is no complaint whatsoever about his work and conduct. The respondent No. 3 without going into the merits of the case and without considering the grounds taken by the petitioner in his appeal rejected the appeal of the petitioner vide its order dated 30.12.2020 (which was received to the petitioner on 07.03.2021). Hence, this claim petition has been filed by the petitioner before this Tribunal.

6. Counter affidavit has been filed by the respondents stating therein that the respondent No. 3 after receiving the enquiry report of the Enquiry Officer issued a show-cause notice dated 29.01.2020 to the petitioner as per Rule 14 (2) of Uttarakhand (U.P. Subordinate Class Police Officers/Employees [Punishment & Appeal] Rules, 1991 Adoptions and Modification Orders, 2002 and the respondent No. 3 alongwith show-cause notice supplied the copy of the enquiry report and directed the petitioner to present his case against the enquiry report and also proposed the minor punishment “Censure” in the show-cause notice. Thus, the disciplinary authority has followed the procedure as prescribed in the Uttarakhand (U.P. Subordinate Class Police Officers/Employees [Punishment & Appeal] Rules, 1991 Adoptions and Modification Orders, 2002 and 23 (2) of Uttarakhand Police Act, 2007.

7. Thereafter, the petitioner replied the show-cause and the disciplinary authority after going through the reply of the petitioner and the enquiry report and by his detail and specific findings passed the punishment order and awarded the censure to the petitioner vide order dated 12.06.2020. Thereafter, the petitioner filed a statutory appeal under Section 26 of the Uttarakhand Police Act, 2007 before the respondent No. 2 and the appellate authority vide order dated 30.12.2020 rejected the appeal by recording his findings. Thus, the answering respondent while awarding the punishment to the petitioner followed the rules and procedure. Hence, this present claim petition filed by the petitioner is liable to be dismissed.

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

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

10. It is apparent by the case record that the petitioner was posted at Chowki Kalkatta Farm of Police Station Kichha in District Udham Singh Nagar, wherein the stone crusher of Smt. Surendra Kaur was located under the jurisdictional area of police chowki in question, where on 08.06.2019, the S.O.G. team made a surprise inspection of the concerned mining area and seized 23 trucks and one tractor allegedly involved in the mining area. Apparently, the respondent No. 4, the then S.S.P., Udham Singh Nagar must have had certain confidential information regarding the alleged illegal mining and possibly about the connivance of the staff of Police Chowki Kalkatta Farm in this matter and due to this reason an S.O.G. team was sent for surprise inspection, instead of the local police team. The findings of S.O.G. team cannot be brushed aside lightly in the wake of the report as submitted by the Deputy Director (Mining) dated 02.07.2019 submitted before the Sub Divisional Magistrate, Kichha, firstly, on the grounds that this inspection dated 02.07.2019 done by the Deputy Director (Mining) was conducted after the surprise inspection of S.O.G. team, which looks like an afterthought. This is not clear whether the Deputy Director (Mining) had been instructed to do this inspection by the District Magistrate, Udham Singh Nagar, or was done by him suo-moto. Secondly, this mining report in question dated 02.07.2019 has been submitted only before the Sub Divisional Magistrate, Kichha with a copy of the report sent to the District Magistrate only for information, and no copy at all to the S.S.P., Udham Singh Nagar where the epicenter of the present matter situates, so it would not be a mere imagination to conclude that the mining report dated 02.07.2019 might have been prepared as a “knee-jerk” reaction, simply to save the skin of the Mining Department as well as the local Revenue officials. Nevertheless, once a definite report by the officer of the Mining

Department has been brought on the file it also cannot be brushed aside without due consideration.

11. So far as the preliminary enquiry report dated 31.12.2019 submitted by Police Circle Officer, Sitarganj is concerned, it is a detailed report wherein the Enquiry Officer has concluded that prima facie, Sub-Inspector Laxman Singh, the then Police Chowki Incharge, beat Constable No. 856 Civil Police Dinesh Papola and Constable 211 Civil Police Harendra Singh are guilty of carelessness and dereliction of duty. Alongwith them the then Inspector Incharge of Police Station Kichha has also been found guilty of lack of supervision and dereliction of duty. Thus, it is not only the petitioner who has been singled-out for the alleged indiscipline.

12. In the light of these two mutually contradictory reports submitted respectively by S.O.G team dated 08.06.2019, and the Deputy Director (Mining) dated 02.07.2019, it seems judicious to give a benefit of doubt to the petitioner by directing a reconsideration of the matter by the respondent No. 2. Accordingly, the Mining Department's report dated 02.07.2019 needs to be placed alongwith a fresh representation to that effect by the petitioner before the respondent No. 2 (The Director General of Police, Uttarakhand, Dehradun) for getting the mining report dated 02.07.2019 verified from the Mining Department, and to reconsider the disciplinary proceedings against the petitioner in the light of such a verification report, as provided by the Mining Department. The Director (Mining Department) is advised to verify the aforesaid report dated 02.07.2019, within a period of one month, when approached by the Police Department.

**ORDER**

Accordingly, the claim petition is partly allowed with a direction that the petitioner will submit a fresh representation alongwith the aforesaid report of the Deputy Director (Mining) dated 02.07.2019 before the respondent No. 2 i.e. Director General of Police, Uttarakhand, Dehradun praying for reconsideration of his disciplinary proceedings, in the light of the report in question. Till the finality of the fresh consideration of the disciplinary proceedings is obtained by the respondent department, the adverse effects of the punishment order dated 12.06.2020 passed by respondent No. 4 (contained as Annexure No. 1 to this petition) and impugned rejection order of appeal dated 30.12.2020 passed by respondent no. 3 (contained as Annexure No. 2 to this petition) shall be kept in abeyance. No orders as to costs.

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

*DATE: December 03, 2024*

*NAINITAL*

*BK*