

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

CLAIM PETITION NO. 162/SB/2024

Shoyab Ali, aged about 41 years, s/o Sri Ahasan Ahmad, r/o Kotwal, Alampur, Jhabera, Haridwar, presently posted at P.S. Clement Town, Chowki Asha Roadi, Dehradun, Uttarakhand.

.....Petitioner

VS.

1. State of Uttarakhand through Secretary, Home, Secretariat, Dehradun.
2. Deputy Inspector General of Police, Dehradun/ Senior Superintendent of Police, Dehradun.
3. Inspector General of Police, Dehradun.

.....Respondents.

Present: Sri Mahendra Singh Bisht, Advocate, for the petitioner.(online)
Sri V.P.Devrani, A.P.O., for State Respondents.

JUDGMENT

DATED: NOVEMBER 14, 2024

Justice U.C.Dhyani (Oral)

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

"1. To quash and overturn the impugned order dated 05.06.2024 issued by the Respondent No. 3 and consequently to quash the order

dated 11.08.2023, issued by the Respondent No. 2 against the petitioner.

II. To direct the Respondents to reimburse the cost of the present claim petition.

III. To give any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. Petitioner has filed affidavit in support of the claim petition. Relevant documents have also been brought on record along with the same.

3. Petitioner was given censure entry for misconduct, description of which has been given in the order dated 11.08.2023, passed by Senior Superintendent of Police/ Deputy Inspector General of Police, Dehradun (Annexure: 1). Petitioner filed departmental appeal against the same, which (departmental appeal) was dismissed *vide* order dated 05.06.2024 by the Inspector General of Police, Garhwal Region, appellate authority (Annexure: 2).

4. Aggrieved with the same, petitioner preferred revision, which was returned by the S.S.P., Dehradun, *vide* order dated 19.09.2024 (Annexure: 3). Petitioner has filed copy of the revision dated 27.08.2024 with the claim petition.

5. Ld. Counsel for the petitioner submitted that revision is maintainable against the order of the appellate authority. The Tribunal as well as the Hon'ble High Court, in a number of decisions, has held that revision against the order of the appellate authority is maintainable. Ld. Counsel for the petitioner further submitted that the Hon'ble High Court in WPSS No. 1451 of 2021, has observed that the revision is maintainable under the Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991 (for short, the Rules of 1991) and the Uttarakhand Police Act, 2007.

6. Rule 23 of the Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991, 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. Hon’ble Court passed order on 24.12.2021 in WPSS No. 1451 of 2021, as follows:

“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. Thus the mandate of the Hon’ble High Court, in the above noted writ petition, and couple of other decisions, is that the revision is

maintainable against such orders. Had the revision not been maintainable, the Hon'ble Court would not have passed such an order.

9. It is thus clear that the revision against the appellate order is maintainable. Ld. A.P.O. agrees to such legal proposition.

10. The order dated 19.09.2024 (Annexure: 3) is liable to be set aside. The same is, accordingly, set aside, leaving it open to the petitioner to press his revision before the competent authority. The revisional authority is directed to entertain the revision and decide the same on merits, in view of the above noted legal position.

11. The claim petition is disposed of, at the admission stage, with the consent of Ld. Counsel for the parties by directing the competent authority to entertain the revision of the petitioner and decide the same on merits, as per law. Delay, if any, in filing the same is condoned in the interest of justice. No order as to costs.

12. Rival contentions are left open.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: NOVEMBER 14, 2024.
DEHRADUN

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