

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

Present: Hon'ble Mr. Rajendra Singh

----- Vice Chairman(J)

Hon'ble Mr. A.S.Rawat

-----Vice Chairman(A)

**CLAIM PETITION NO.75/NB/DB/2023**

Shri Lalit Dewari aged about 44 years s/o Sri Mohan Singh R/O F-16,  
Singh Colony, Railway Crossing, Rudrapur, Distt – Udham Singh  
Nagar.

.....Petitioner

**Vs.**

1. State of Uttarakhand through Home Secretary. Government of Uttarakhand
2. Director General of Police, Uttarakhand, Dehradun.
3. The Inspector General of Police, Uttarakhand, Dehradun.
4. Commandant, 31<sup>st</sup> Battalion, PAC, Rudrapur, Udham Singh Nagar.

.....Respondents

Present: Sri Sanjay Bhatt and Shri Prem Prakash Bhatt, Advocates  
for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondents

**JUDGMENT**

**DATED: JANUARY 15, 2025**

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

*“(i) To quash and set aside the impugned order dated 17/12/2022, 29-12-2020 and 24/25-11-2020 passed by the Respondent No 2,3,4 respectively.*

*“(ii) To issue appropriate order directing the official Respondents to give promotion to the petitioner on the post of*

*Company Commander w.e.f. 30/12/2020 and pay all the consequential benefits.*

*(ii) Any other order or the direction which this Learned Tribunal may deem fit and proper under the facts and the circumstances of the case.*

*(iv) Award the cost of the petition to present petitioner. ”*

2. The brief facts of the case are as follows:

2.1 The petitioner was appointed as Constable in Provincial Armed Constabulary (PAC), subsequently he was promoted as Platoon Commander. He was posted in the City Petrol Unit (CPU). An FIR was lodged by Mr. Anoop Agarwal at Police Station Kathgodam against five persons and petitioner was one of them. The allegation was that they have looted Rs.7,94,000/- from the complainant while they were on duty. Petitioner was placed under suspension and later on reinstated in the service.

2.2 The petitioner was arrested and sent to Jail and was released on bail after some time. The police submitted the charge sheet against him, however an application was moved by petitioner under section 482 of CrPC and entire proceedings against him were quashed on the basis of the compounding application moved by the complainant and the applicant jointly.

2.3 A charge sheet was issued by the Disciplinary Authority, inquiry was conducted and he was given punishment subsequently of forfeiture of the salary for the period from 19/9/2015 to 18/04/ 2016 and also the censure was awarded.

2.4 In the same case Mr. Parkash Chandra Bhagat was also implicated and departmental enquiry was conducted against him. He was given penalty of censure was later on exonerated from the charges levelled against him.

2.5 The petitioner appealed against the punishment order to Inspector General of Police, PAC, which was rejected vide order dated 20/3/2018 and the punishment order dated 16/11/2017 was affirmed and communicated,

2.6 The petitioner preferred a revision before the next higher authority, the Director General of Police under Rule 23 under which punishment order was passed. The revision application was turned down on 14/09/2018 on the ground that under Uttarakhand Police Act, 2007 only one appellate forum is available and no revision lies.

2.7 The petitioner challenged the order of the punishment in the Hon'ble High Court and filed a writ petition No 4292 (S/S) of 2018 which was disposed off with relegation of the petitioner to the Revision Authority. Incompliance of the order of the Hon'ble High Court and DG Police set aside the order of punishment.

2.8 There remained nothing against the petitioner as criminal proceeding was quashed by the Hon'ble High Court and the departmental Proceedings were set aside by the Revisional authority.

2.9 On 16/12/2020 the department prepared seniority list of Platoon Commanders for the promotion to the post of Company Commanders. The eligibility of the candidates was to be considered on 01/07/2020. The petitioner along with six other Platoon Commanders filed the forms containing service records.

2.10 However, he received a letter dated 25/11/2020 that SSP, Nainital vide order dated 24/11/2020 has recorded a doubtful integrity of the petitioner for the year 2015. The petitioner was denied promotion in the DPC meeting held on 30/12/2020.

2.11 He filed a writ petition No 132 of 2021 in the Hon'ble High Court. During the pendency of the petition, the petitioner was promoted to post of Company Commander on 06/06/2022. The Hon'ble High Court dismissed the writ petition on the ground that order of punishment dated 25/11/2020 has reached finality therefore there is no scope for interference. The special petition No 255 of 2022 filed by the petitioner was dismissed as withdrawn on 02/09/2022 with the liberty to pursue remedies as available in law.

2.12 The petitioner challenged the validity of the order dated 24/25/11/2020 passed by the disciplinary authority and order dated 29/12/2020 passed by the appellate authority, the petitioner filed a revision before the revisional authority on the ground that for the selfsame assessment year two different adverse entries cannot be given particularly when the order of punishment has been cancelled. The integrity of the petitioner for the year 2015 has not been certified even after five years on 25/11/2020 where as his suitability for the promotion was to be assessed on 01/07/2020. The petitioner was to be given promotion from the due date and the order dated 24/25-11-2020 and 29-12-2020 were sought to be cancelled.

2.13 Decision of the Director General of Police was conveyed by the Commandant of the 46<sup>th</sup> Battalion of PAC Rudrapur that there is no provision of revision to the Government and the revision has been preferred after 30 days, therefore revision application cannot be entertained.

2.14 The petitioner has filed the claim petition before the tribunal challenging the order date 24/25/-11/2020, 29-12-2020 and 17-12-2022 on the following grounds:

- The criminal proceeding against the petitioner has been quashed, the petitioner has been exonerated in the Departmental proceedings also. Therefore, the selfsame assessment of doubtful entry cannot be awarded for the year 2015.
- An adverse entry for the year 2015 given on 25-11-2020 cannot be taken into account by the Department Promotion Committee on 29-12-2020 because the date of judging the candidates was 01/07/2020.
- An uncommunicated entry cannot be taken into account while judging the candidates for the promotion in this case on 01/07/2020.

- The petitioner has been overlooked for the promotion without giving any reason while his juniors have been promoted.

Therefore, the Respondents are liable to give promotion to the petitioner with all consequential benefits.

3. C.A. has been filed on behalf of the respondents no. 1,2 ,3,& 4 in which, it has been stated that-

3.1 The petitioner appealed before the Inspector General of Police, Kumoun Region and submitted that the adverse entry in ACR has been recorded with malafide intention and was not communicated to the petitioner in time. The inspector General of Police vide his order dated 29/12/2020 rejected the representation and upheld the decision of the Senior Superintendent of Police, Nainital on the ground that the petitioner has got his case closed on the compounding with compromise with the complainant, due to which the allegations against the petitioner are not over. Additional Director General of Police rejected the revision petition on the ground of the lacuna in the procedure rather than accepting the petitioner as innocent. The petitioner was aware of the fact that after rejection of the representation in appeal the scope for the revision was not available to the petitioner. The petitioner preferred the revision after 90 days of the stipulated time which was rejected by the Additional Director General of Police on the basis of being time barred.

3.2 The petitioner was not promoted on 30/12/2020 as there was an entry of withholding of the Integrity against the petitioner in the ACR of the petitioner. Learned A.P.O. further pleaded that the claim petition is based on misleading facts and the same is liable to be rejected.

4. The petitioner has filed a Rejoinder Affidavit and reiterated the facts mentioned in the claim petition, he has submitted that the minor penalty imposed against him was set aside by the Revisional Authority, he was exonerated in Disciplinary proceedings against

him. So there is no occasion for the Respondents to withhold the integrity of the petitioner for the same year of 2015. The petitioner appealed against the adverse remark on 02/12/2020 which was rejected on 29/12/2020 and on the same day DPC was held and he was denied promotion. There was nothing against petitioner in 2020 which may be utilized against him. He has pleaded to allow the claim petition.

5. Heard learned Counsel on behalf of the petitioner and the learned A.P.O. and went through the documents submitted by the both the parties.

6. The learned counsel on behalf of the petitioner has argued that the censure entry against the petitioner has been expunged by the Revisional authority and withholding of the integrity of 2015 was not communicated to him in time. The petitioner has relied on the following judgements:

i. Hon'ble Supreme Court in the matter of *V.G. Nigam and others Vs Kedar Nath Gupta and another* on 24<sup>th</sup> September 1992. The procedure set by the Hon'ble Supreme Court is as under;

**‘ACR communicated after a great deal of delay should be deemed to be non-existing’**

ii. Hon'ble High Court of Allahabad in the matter of **“C.D. Singh Vs State of U.P.** directed *“As per Fundamental Rule -56 also, it is compulsory to give information of the adverse entry to the Government Servant , if it is not done then it is illegal”*

iii. Hon'ble High Court of Delhi in the matter of *“Mallinath Jain Vs. Municipal Corporation has given the guidelines that “* **Not to give information of the adverse entry is violation of the Principle of the Natural Justice** *“*

So, there will no effect of the adverse entry on his promotion.

7. Learned A.P.O. has pleaded that the order to withhold the integrity certificate has given SSP Nainital on 24.11.2020. This order has been upheld by the Inspector General of the Police vide his order dated 29.12.2020. The revisional Authority vide order dated 17.12.2022 has not considered the revision application of the petitioner on the ground of its being time barred. The Hon'ble High Court in the judgment on 04.07.2022, has mentioned that the petitioner has not been unblemished, the criminal proceedings were quashed on the ground of complainant and the applicant reaching an agreement and approached the Court that they do not have any grievance. The remark on his integrity has reached finality. In view of the facts mentioned the remarks about the integrity remains there.

8. Based on the arguments advanced by the parties and perusal of the documents, it is clear that the ACR of the petitioner for the year 2015 was reported by Circle officer, Haldwani, Shri Rajendra Singh Hyanki in the year 2016. The reporting officer has remarked ***"An FIR No 66/2015 u/s 342/120 B/394 /411 IPC is registered in PS Kathgodam against the Sub inspector which is pending in the Court of law "***. SSP Nainital, the Accepting Authority has given remark ***"The integrity not certified due to FIR and other complaints."***

9. Learned Counsel for the petitioner has relied on the following judgements:

(a) Hon'ble Supreme Court in the matter of *V.G. Nigam and others Vs Kedar Nath Gupta and another* on 24<sup>th</sup> September 1992.

(b) Hon'ble High Court of Allahabad in the matter of *"C.D .Singh Vs State of U.P.*

(c) *Hon'ble High Court of Delhi in the matter of "Mallinath Jain Vs. Municipal Corporation.*

10. The entry in the ACR of 2015 the petitioner was given in 2016 and a criminal case was registered against the petitioner at that time.

The fact has been recorded in the ACR for the year 2015 by the Reporting and the Accepting Authority also. The Integrity of the petitioner could not be certified because of the remarks recorded by the Reporting and the Accepting Authority. The petitioner has not been unblemished as the FIR lodged against him was quashed by the Hon'ble High Court but Hon'ble High Court observed that the remarks in his ACR has reached to the finality. The remark of withholding of the integrity for the year 2015 was given on 24/11/2020 which is well within the stipulated time. It was informed to petitioner on 25-11-2020. The Respondents have followed the guidelines issued vide GO No 1712/Karmic-2/2003 dated 19/12/2003 mentioned at points no. 19, 20 in respect of withholding of integrity.

11. The Petitioner appealed vide his representation dated 02/12/2020 against the information related to withholding of integrity dated 25/11/2020 by SSP Nainital. The appeal of the petitioner was rejected by the Appellate Authority, the Inspector General of Police Kumaon, Nainital. He upheld the decision of the Accepting Authority of withholding the integrity of the petitioner and communicated the same vide appellate order dated 29/12/2020.

12. The order passed by the Appellate Authority was not challenged before any higher forum in time. The revision application was filed in the month of September 2022 which was not considered by the Revisional Authority due to the reason that application has been submitted after three months of the decision of the Appellate Authority as per the provisions in the Police Regulation 2007. The application was returned in original to the petitioner through Commandant 46<sup>th</sup> Battalion, PAC Rudrapur, Udham Singh Nagar accordingly.

13. The aforesaid judgements of the Hon'ble Courts relied upon by the petitioner are not applicable in this Claim Petition because petitioner was informed about withholding the Integrity Certificate by the respondents in time.



14. In view of the above, we hold that the Respondents informed the petitioner about withholding of integrity in time. The petitioner has not been unblemished as the FIR against him was quashed by the Hon'ble High Court on the ground of compromise between the complainant and the applicant. He also did not appeal against withholding of integrity to higher authority in time. The Hon'ble High Court also observed that the remarks in his A.C.R. has reached to the finality. Hence the Claim petition is liable to be dismissed.

### **ORDER**

The claim petition is hereby dismissed. No order as to costs.

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

**(RAJENDRA SINGH)**  
VICE CHAIRMAN (J)

*DATED: JANUARY 15, 2025*  
*DEHRADUN.*  
*KNP*