BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIUBUNAL
BENCH AT NAINITAL

Present: Hon'ble Mr. Rajendra Singh

……..Vice Chairman (J)

Hon'ble Mr. A.S. Rawat

……..Vice Chairman (A)

CLAIM PETITION NO. 49/NB/DB/2021

Ram Kumar, aged about 54 years, S/o Sri Jwala Prasad, R/o Shiv Colony, Naugawa Thago, Naugaon Thagoo, District- Udham Singh Nagar, Uttarakhand-262308.

……Petitioner

Vs.

1. State of Uttarakhand through Secretary, Elementary Education Department, Government of Uttarakhand, Dehradun.
2. Director, Elementary Education, Uttarakhand, Dehradun.
3. Chief Education Officer, Udham Singh Nagar.
4. District Education Officer, Elementary Education, Udham Singh Nagar.

…..Respondents

Present: Sri Kishore Rai, Advocate for the Petitioner
Sri Kishore Kumar, A.P.O. for the Respondents

JUDGMENT

DATED: MARCH 25, 2025

This claim petition has been filed by the petitioner for the following reliefs:

"A) To quash the impugned order dated 31.03.2021 passed by respondent no. 4.

B) To direct the respondents to reinstate the claimant in service along with all consequential benefits.

C) To award the cost of the petition and compensation or to pass any such order or direction which this Hon'ble Tribunal may deem fit and proper."

2. During Course of arguments, learned A.P.O. has raised preliminary objection that claim petition is premature, as the petitioner has an alternative remedy to file appeal against the impugned order to the appellate authority under Rule 11(1) of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003. He further submitted that Section 4 of the Public Services Tribunal Act provides that no reference shall ordinarily be entertained by the Tribunal until all departmental remedies (under the rules applicable to the petitioner) are exhausted.

3. Learned Counsel for the petitioner confined his relief to the extent of seeking liberty to appeal to the next higher authority, as per rules and also to condone the delay in filing the appeal.

4. It would be appropriate to quote Rule 11 of the Uttarakhand Govt. Servant (Discipline and Appeal) Rules, 2003, as under:

Appeal- "11. (1) Except the orders passed under these rules by the Governor, the Government Servant shall be entitled to appeal to the next higher authority from an order passed by the Disciplinary Authority.

(2) The appeal shall be addressed and submitted to the Appellate Authority. A Government Servant Preferring an appeal shall do so in his own name. The appeal shall contain all material statements and arguments relied upon by the appellant.

(3) The appeal shall not contain any intemperate language. Any appeal, which contains such language may be liable to be summarily dismissed.

(4) The appeal shall be preferred within 90 days from the date of communication of impugned order. An appeal preferred after the said period shall be dismissed summarily.

5. It is provided under Rule 11(1) of the ‘Discipline and Appeal Rules’ that a government servant is entitled to ‘Appeal’ against any punishment order to the next higher authority.

6. It would be, therefore, justified that the controversy in question is first considered and decided by the Departmental Appellate Authority, in the interest of justice.

7. In view of above, we allow the petitioner to avail the remedy of ‘Appeal’ under Rule 11 (1) of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 as amended from time to time. The petitioner shall file the ‘Appeal’ before the Appellate Authority within three weeks from the date of receipt of the certified copy of this order and the Appellate Authority, after receiving it, shall decide statutory appeal within three months, in accordance with law and rules, after affording an opportunity of hearing to the petitioner, as expeditiously as possible, without unreasonable delay. The delay, if any, in filing the appeal is condoned, in the interest of justice.

8. The petition is disposed of accordingly. No order as to costs.

A.S.RAWAT
VICE CHARMAN (A)

RAJENDRA SINGH
VICE CHARMAN (J)

DATED: MARCH 25, 2025
NAINITAL
RS