

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

**CLAIM PETITION NO. 25/DB/2017**

Anil Kumar Benjola Sub Inspector, Civil Police, Thana Dalanwala, District Dehradun, Uttarakhand.

.....Petitioner

**VS.**

1. State of Uttarakhand through Secretary (Home), Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Inspector General of Police, Garhwal Circle, Dehradun, Uttarakhand.
3. Superintendent of Police, District Dehradun, Uttarakhand.

.....Respondents.

Present: Sri V.P.Sharma, Counsel  
for the petitioner.

Sri U.C.Dhaundiyal, A.P.O.  
for the Respondents.

**JUDGMENT**

**DATED: FEBRUARY 23, 2018**

**Justice U.C.Dhyani (Oral)**

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

“(a) a) To declare that the punishment of censure entry has the same effect as of major punishment hence can't be awarded to the petitioner without following the procedure prescribed for the major punishment.

(b) To issue an order or direction to set aside the impugned punishment order dated 22.08.2014 (Annexure No.A-1 to the claim petition) and impugned appellate order dated 15.08.2016 (Annexure No. A-2 to the petition) passed by the respondents No. 3 and 2 respectively declaring the same as null and void along with all consequential benefits. .

(c) Issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(d) Award the cost of the petition to the petitioner".

2. Brief facts, giving rise to the present claim petition, are as follows:

The petitioner, who is Sub Inspector in Civil Police, Uttarakhand, was served with a show cause notice dated 06.04.2014 (Annexure No. A-3) by Respondent No.3, while being posted in the same capacity, at Police Station Sahaspur, District Dehradun. He was asked to show cause, as to why a censure entry be not awarded in his character roll?

Petitioner submitted reply to the show cause notice dated 29.04.2014 (Annexure: A-5) to Respondent No.3 denying the charges.

A clarification was sought by Respondent No.3, vide order dated 02.08.2014 (Annexure: A6) in respect of difference of statements, given before the preliminary inquiry, and in show cause notice.

Petitioner submitted reply on 11.08.2014 (Annexure: A6) to the order dated 02.08.2014 to Respondent No.3.

Respondent No.3, punished the petitioner, awarding punishment of censure entry in his character roll, vide order dated 22.08.2014.

The petitioner preferred an appeal against the punishment order to Respondent No.2 on 22.11.2014. The Respondent No.2 rejected the appeal. Hence, present claim petition.

3. A censure entry was awarded to the petitioner when he was posted at P.S. Sahaspur, District Dehradun, in the year 2012. A named F.I.R. was lodged by informant/ complainant Kushalpal Singh Bhandari against accused persons, namely, Manoj Rana and Smt. Madhu Khanduri enumerating the facts contained therein that, complainant's land bearing Khasra No. 239-Ka was mutated by the accused persons in their own name, after preparing forged and fictitious documents. F.I.R. was, thus, lodged as Case Crime No.183/13 under Sections 420/467/468/471 of IPC. The petitioner was entrusted investigation of the case. During the course of investigation, case diaries(C.D.) were required to be submitted to Supervisor (C.O.), but the same were sent late. Insinuation against the petitioner was that, the CDs were not promptly sent to Supervisor's office. If, at all, CDs were required for any purpose, the petitioner ought to have taken those CDs back from Supervisor's office, but the petitioner did not do so. According to 'censure entry', petitioner committed misconduct, in not submitting the CDs to Supervisor's office in time.
4. In response to the show cause notice, petitioner had given reply, copy of which has been enclosed as Annexure-A5 to the claim petition. The sum and substance of the reply is that, a Criminal Writ was instituted on behalf of the accused persons in Hon'ble High Court of Uttarakhand at Nainital; Hon'ble Court directed production of CDs from time to time and the petitioner filed his Counter Affidavit along with copies of CDs in High Court. According to the reply furnished by the petitioner, he furnished CDs to the officer in-charge of the P.S. well in time. The S.O. forwarded the same to C.O. It was the duty of Constable Clerk to have sent the same to C.O. in time. If Constable Clerk did not do so, the petitioner could not be blamed for the same.
5. It may be noted here that, the S.O. never sought explanation from the petitioner for not submitting the CDs in time, because, petitioner had already submitted the same to S.O. in time.

6. Charge sheet was submitted against the accused persons. During the period of investigation, the petitioner was also busy in maintaining law and order situation, and also in calamity relief activities. . In his reply, the petitioner has given reasons, as to why he should not be punished with 'censure entry'. S.S.P., Dehradun, vide order dated 02.08.2014, (Annexure: A6) sought some clarification from the petitioner. Petitioner, vide reply dated 11.08.2014 (Annexure: A 7), furnished those clarifications. The main plank of the reply was that, the petitioner was required to file Counter Affidavit, enclosing copies of CDs, in a Criminal Writ Petition filed on behalf of the accused persons. A prayer was, therefore, made by the petitioner that his explanation be accepted and show cause notice be withdrawn. Not satisfied with the explanation of the petitioner, 'censure entry' was awarded to him on 22.08.2014.
7. The same was assailed before the appellate authority by filing a departmental appeal on 22.11.2014 (Copy is Annexure: A-8).
8. The appellate authority, vide order dated 15.08.2016, dismissed the departmental appeal of the petitioner (Annexure: A2).
9. It is the submission of Ld. Counsel for the petitioner that the act of respondent is arbitrary and violative of Article 14 and 16 of the Constitution of India. It is also violative of principles of natural justice. Ld. Counsel for the petitioner further submitted that there is no willful and deliberate omission on the part of the petitioner. No evidence has been offered to show that he was careless. Charge sheet of dereliction of duty, against him, is baseless.
10. Ld. A.P.O., in reply, submitted that, there is no ground warranting this Court to interfere in the orders passed by the two authorities below (Disciplinary Authority and Appellate Authority).
11. After going through the documents brought on record, this Court is of the opinion that, there was timely submission of the CDs by the

petitioner to the Station House Officer, who also forwarded the same to the Supervisory Officer (CO). If, these CDs were not sent to the office of Supervisory Officer in time, the petitioner is not to be blamed for the same. Following chart will indicate that there was timely submission of CDs of Case Crime No. 183/13 by petitioner to S.O.:

Case Diary	Date of investigation	Date of sending the same to Supervisory Officer's office according to C.A.	Date of submission of all C.Ds according to petitioner.
1	11.10.2013	06.02.2014	11.11.2013
2	15.10.2013	06.02.2014	11.11.2013
3	20.10.2013	06.02.2014	11.11.2013
4	01.11.2013	06.02.2014	11.11.2013
5	10.11.2013	06.02.2014	11.11.2013
6	21.11.2013	13.02.2014	19.01.2013
7	10.12.2013	13.02.2014	19.01.2014
8	20.12.2013	13.02.2014	19.01.2014
9.	03.01.2014	13.02.2014	19.01.2014
10.	18.01.2014	13.02.2014	19.01.2014
11	28.01.2014	13.02.2014	04.02.2014
12.	04.02.2014	13.02.2014	04.02.2014

12. Whereas, according to Counter Affidavit, the CDs were submitted late, the documents, filed in this respect, would reveal that, although, the petitioner submitted those CDs to S.O. well in time and even if it be conceded for the sake of arguments that, CDs were not sent to Supervisor's office well in time, the petitioner cannot be blamed for the same.
13. There is yet another aspect of the matter, which has been taken by the petitioner in Paragraph 5 of the reply to the show cause notice dated 29.04.2014. It reads that, there is no provision either in Police Regulation or anywhere in Chapter-XII of CrPC (Secs.154-173) as to

when the case diary should be submitted to Magistrate. According to same Paragraph, it is not the responsibility of the investigating officer to ensure that the same reaches to Supervisor's office, i.e. C.O.'s office, well in time.

14. It may be noted here that the charge sheet was submitted against the accused persons after investigation, under Sections 420/467/468/471 IPC. It is not a case in which Final Report (FR) was submitted, so as to attract a possible accusation, that the CDs were not timely submitted to espouse the cause of accused persons. No complaint was lodged by anybody, either the informant or accused persons in this regard, although the same was not necessary to initiate departmental action.
15. There is yet another important aspect of the matter, as has come to fore, on the basis of documents brought on record. The accused persons of Case Crime No. 183/13, filed Criminal Writ Petitioner before the Hon'ble High Court. The petitioner was required to file his Counter Affidavit along with copies of the case diary. In compliance of the orders of the Hon'ble Court, the petitioner filed Counter Affidavit enclosing the copies of case diary therein. An argument that, he should have submitted the same to C.O. in time (which he appears to have done; he has submitted the same to S.O., who, in turn, ought to have ensured timely submission of the same to C.O.'s office), and only when the copies of case diary were required to be submitted along with Counter Affidavit before the Hon'ble Court, should have taken them back from C.O.'s office, does not hold water. In Paragraph 12 of the departmental appeal (Annexure: A-8), the appellant/petitioner has clearly indicated that he was doing '*Pairavi*' of such criminal case in Hon'ble High Court.
16. It is pointed out that the charge sheet against the accused persons was submitted well in time. This Court has also perused copies of case diary, which was available with Ld. A.P.O. A perusal of the same will indicate that C.D. of 11.10.2013 was submitted to SHO on 12.10.2013; C.D. of

15.10.2013 was submitted on 16.10.13; C.D. of 20.10.13 was submitted on 21.10.13; C.D. of 1.11.13 was submitted on 2.11.13; C.D of 10.11.13 was submitted on 11.11.13: C.D. of 21.11.13 was submitted on 11.12.13; C.D. of 20.12.13 was submitted on 21.12.13; C.D. of 03.01.14 was submitted on 04.01.14; and C.D. of 18.01.14 was submitted to SHO on 19.01.14. Thus, there was timely submission of these case diaries by the petitioner to his superior and, if, at all, it was found that, there was any delay in submission of the same to C.O.'s office, the petitioner, appears to have given cogent reasons to explain the same. The petitioner, in the circumstances, could not be blamed for the same.

17. Irresistible conclusion would therefore be, that, the order passed by the Respondent No.3, as affirmed by Respondent No.2, cannot sustain and are, liable to be set aside.
18. The petition, therefore, succeeds. The orders impugned dated 22.08.2014 and 15.08.2016 are hereby set aside. No order as to costs.

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: FEBRUARY 23, 2018*  
*DEHRADUN*

VM