

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

CLAIM PETITION NO. 39/SB/2017

Dinesh Kumar aged about 40 years S/o Sri Sohan Lal, Sub-Inspector, presently posted the Government Railway Police, Railway Station, Dehradun.

.....Petitioner

vs.

1. State of Uttarakhand through Principal Secretary, Home, Civil Secretariat, Subhash Road, Dehradun.
2. Additional Secretary, Government of Uttarakhand, Ministry of Home Affairs, Dehradun.
3. Additional Director General of Police , Uttarakhand, Dehradun.
4. Senior Superintendent of Police, Haridwar.

.....Respondents.

Present: Sri V.P.Sharma &
Sri S.C.S.Bhandari, Counsel
for the petitioner.

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

JUDGMENT

DATED: MARCH 07, 2018

Justice U.C.Dhyani(Oral)

Considering the reasons, thus furnished in support thereof, the delay in filing this petition, is hereby condoned. The delay condonation application made, therefor, is allowed.

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

“ (i) To issue order or direction to quash the impugned orders dated 23.08.2008 (Annexure No.A-1), appellate order dated 22.10.2010 (Annexure No. A-2) and the revisional order dated 07.07.2015 (Annexure A-3) and expunge the adverse remark from the service record of the petitioner along with all consequential benefits.

(ii) Any other relief which the Hon’ble Court may deem fit and proper in the circumstances of the case.

(c) To award cost of this petition to the petitioner. ”

3. Petitioner was posted as Sub Inspector at P.S. Gang Nehar, District Haridwar in the year 2008. On 09.05.2008, Police Party was involved in checking of vehicles. Three boys were riding on a motorcycle. The Police party intercepted the driver, who was also owner of the motorcycle. He was not having any papers relating to his vehicle. Vehicle was sent to P.S. Gang Nehar. After sometime, the owner brought papers. A Constable, who was posted at P.S. Gang Nehar, realized an amount of Rs.500/- from owner of the motorcycle. The money was handed over to a Head Constable, posted there. Petitioner-Sub Inspector handed over a receipt of Rs.100/- to owner of the vehicle. The charge is that the Police personnel ought to have seized the vehicle under Section 207 Motor Vehicle Act. Instead of doing the same, a sum of Rs.500/- was realized from the owner and a receipt of Rs.100/- only was given to him. Image of Police got tarnished in the estimation of general public. The petitioner- S.I. was also charged with dereliction of duty and, therefore, he was awarded ‘censure entry’.

4. Before that, a show cause notice was given to the petitioner on 31.07.2008. The petitioner did not bother to reply the same within the stipulated time. Notice was received by him on 05.08.2008. Despite having a week’s time to furnish his explanation, he did not say anything,

and therefore, 'censure entry' was awarded to him, *vide* order dated 23.08.2008 by S.S.P., Haridwar.

5. Petitioner challenged the same by way of departmental appeal. Such appeal was dismissed by Addl. Director General of Police (Administration), *vide* order dated 22.2.2010. Review petition was filed by the petitioner against the order of appellate authority, which was dismissed by the Government, *vide* order dated 07.07.2015. Hence, present claim petition.
6. At the very outset, it may be said that the petitioner did not respond to the notice given to him by the inquiry officer under the Police Officers of Subordinate Rank (Punishment & Appeal) Rules, 1991 (hereinafter referred to as Rules of 1991). It has clearly been mentioned in the order of SSP, Haridwar that show cause notice was given to the petitioner under Rule 14(2) of the Rules of 1991, but in spite of service of notice upon the petitioner, he did not furnish any explanation of the same. It appears that the petitioner was not interested in contesting the charge levelled against him. Although, he did not plead guilty, but, obliquely, by not furnishing any explanation, it may be inferred that he was not interested in contesting the charges levelled against him.
7. Besides the above noted fact, it is a case of corruption. The appellate authority, in its order, which is impugned in present claim petition, has mentioned that a receipt of Rs.100/- only, was given to the owner of the vehicle by the petitioner, whereas, the Constable realized an amount of Rs.500/- in his presence. Rs.400/- were, however returned to the owner of the vehicle after intervention of Head Moharrir. The appellate authority, therefore, gave cogent reasons to arrive at a conclusion that the petitioner was involved in an act of corruption.

8. Whether the petitioner ought to have challaned the vehicle under Section 207 of Motor Vehicle Act or not, is a different question. This Tribunal is not entering into that aspect of the matter.
9. Such an incident of corruption involving petitioner, was also highlighted by a local daily on 11.07.2008 by publishing a news item captioning, 'the S.I. extracted Rs.500/-, gave receipt of Rs.100/- only'.
10. All the Police personnel, including present petitioner, were therefore, found guilty. Since Head Constable and Constable have not filed claim petition, therefore, this Tribunal can comment only on the misconduct of present petitioner, who was posted as Sub Inspector at P.S. concerned on the relevant date.
11. Considering the above noted facts of the case, this Tribunal has no reason to interfere with the concurrent findings of two authorities below, who have given cogent reasons in support of their conclusions. Corrupt practice should not be taken up lightly. Due procedure of law has been followed while conducting inquiry. No legal infirmity has been pointed out in the same.
12. This Tribunal is unable to take a view different from what was taken by the inquiry officer, as also by the appellate authority.
13. Sensing gravity of the matter, Ld. Counsel for the petitioner prayed, in the beginning of hearing of present claim petition, to give some more time to file Rejoinder Affidavit., which this Court declined in view of order dated 14.02.2018, on which, petitioner assured that the Rejoinder Affidavit will be filed within three weeks, but did not file the same. In normal circumstances, this Tribunal would have granted further time to the petitioner to file Rejoinder Affidavit, but the contents of the charges levelled against the petitioner were so grave that there was no scope for the petitioner to say anything in Rejoinder Affidavit, especially when, he did not respond to the show cause notice,

despite having given opportunity for the same. What else could have been said by the petitioner in Rejoinder Affidavit?

14. Claim petition, therefore, fails and is dismissed. No order as to costs.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MARCH 07, 2018
DEHRADUN

VM