

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

Present: Hon'ble Mr. Justice U.C.Dhyani
----- Chairman

Hon'ble Mr. A.S.Nayal
-----Member (A)

CLAIM PETITION NO. 90/DB/2018

Shasta Parveen w/o Md. Yasin, aged about 33 years, presently posted as Sub-Inspector P.S. Muni-ki-Reti, Tehri Garhwal.

.....Petitioner

vs.

1. State of Uttarakhand through Additional Chief Secretary, Home of Food & Civil Supplies, Civil Secretariat, Dehradun.
2. Deputy Inspector General of Police, Garhwal Region, Uttarakhand, Dehradun.
3. Superintendent of Police, Chamoli.

.....Respondents.

Present: Sri Shashank Pandey & Ms. Mohini Bajaj, Counsel for the petitioner.
Sri U.C.Dhaundiyal & Sri V.P.Devrani, A.P.Os., for the Respondents

JUDGMENT

DATED: JANUARY 04, 2019

Justice U.C.Dhyani (Oral)

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

- “(i) Issue an order or direction to quash the order dated 30.06.2018, *vide* which the petitioner has been punished for No Work No Pay for 10 days.
- (ii) Issue any order or direction to quash order dated 18.11.2018 by which the appeal of the petitioner has been rejected.
- (iii) Issue any other order or direction which the Hon'ble Court deems fit and proper.
- (iv) Award the cost of claim petition to the petitioner. ”

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

While the petitioner was posted as Sub Inspector in P.S. Gopeshwar, District Chamoli, she proceeded on three days' casual leave on 04.05.2018. She was stated to be indisposed. On 05.05.2018, petitioner got herself checked in Doon Hospital, in Dehradun, where she was found to be suffering from fever because of Acute U.T.I. The medical officer advised her for certain pathological investigations and also advised her rest for two days. After pathological investigation, the petitioner was further advised for seven days' bed rest. She informed Respondent No.3 on Fax, which was sent on 07.05.2018 at 12:15 P.M.. Senior Medical Officer, Women Hospital, Dehradun, issued a medical certificate to show that the petitioner was advised complete bed rest from 07.05.2018 to 13.05.2018. On 14.05.2018, petitioner was found fit to resume her duties. When she reached Police Station, Gopeshwar on 15.05.2018, she was not permitted to join her duties. It was stated that some inquiry was instituted against her. She, however, gave her joining at Chamoli on 16.05.2018. On 12.06.2018, the petitioner was served with two show cause notices. One, why the petitioner should not be given 'censure entry' for being absent without permission. Second, why salary of the petitioner be not deducted under 'no work no pay' Rule. A preliminary inquiry report dated 08.06.2018 was also supplied to the petitioner along with 'show cause notice'. The inquiry officer agreed to the submission of the petitioner that she was indisposed from 05.05.2018 to 14.05.2018. The only fault, found with the petitioner, was that she ought to have joined her duties on 15.05.2018, instead of 16.05.2018. [Facts remain that petitioner presented herself for joining her duties on 15.05.2018. She was, however, not permitted to join at P.S., Gopeshwar. Instead, she was asked to go to Chamoli before Respondent No.3, which she could do only on 16.05.2018].

The petitioner gave reply to the show cause notice. She enclosed her medical reports along with such reply. The petitioner was, however served with punishment order dated 30.06.2018, whereby her salary for 10 days' was deducted on the principle of 'no work no pay'. Aggrieved against the same, the petitioner filed departmental appeal before the appellate authority, who failed to notice that neither the U.P. Police Officers of Subordinate Rank (Punishment & Appeal) Rules, 1991 nor the Uttarakhand

Police Act, 2007 prescribe for any punishment of ‘no work no pay’. The appeal of the petitioner was dismissed *vide* order dated 18.11.2018.

Aggrieved against the order of disciplinary authority/ appointing authority, which was affirmed by the appellate authority, present claim petition has been filed by the petitioner.

3. When the claim petition was taken up, for the first time, on 31.12.2018, Ld. A.P.Os. were requested to seek instructions, while directing the listing of the claim petition for today (i.e., 04.01.2019). Ld. A.P.Os., on receiving instructions from the department concerned, have referred to the letter dated 25.09.2018, written by the petitioner to D.I.G, Garhwal Range (Copy: Annexure: A-13), to indicate that ‘show cause notice’, as to why petitioner be not awarded with ‘censure entry’, has been dropped and leave for the duration 07.05.2018 to 16.05.2018 has been sanctioned without pay.
4. It is the submission of Ld. Counsel for the petitioner that leave is due to the petitioner and a direction be given to Respondent No.3 to grant her leave, if such leave is out- standing in her account. Even if no leave is due in her account, special casual leave, to the extent the same can be given, may be granted to her, because she was given fitness certificate on 14.05.2018, appeared in Police Lines on 15.05.2018, but was not given joining and was directed to appear before Respondent No.3, instead.
5. The petitioner has given an explanation to the authority concerned, as also in the claim petition that she gave her joining on 15.05.2018 at P.S., Gopeshwar, but she was asked to go to Chamoli and thereby, she could reach Chamoli in the morning of 16.05.2018. Documents brought on record bear testimony to this fact.
6. Since show cause notice, as to why ‘censure entry’ be not awarded to the petitioner, has been dropped, therefore, no relief has been sought by the petitioner on this count. The petitioner gave her joining on 15.05.2018 at P.S., Gopeshwar and when she was asked to go to Chamoli, then only she could reach Chamoli in the morning of 16.05.2018. Therefore, ends of justice will be met if Respondent No.3 is directed to grant her, available leave, in the peculiar facts of the case.

7. Claim petition is, accordingly, disposed of at the admission stage, by directing Respondent No.3, to grant leave to the petitioner, available in her account. Medical Leave may be sanctioned, as per Medical Officer's Certificate, if such number of leave is available in her account. Since she was physically present on 15.05.2018, but was not given joining, therefore, Casual Leave may be granted to her for rest of the period. If no Casual Leave is due in her account, Special Casual Leave may be given to her. If Respondent No.3 thinks that no Casual Leave/ Special Casual Leave could be given, under the rules, the said respondent may consider sanctioning her Earned Leave for the period of absence, as deemed proper.
8. Needless to say that the decision so taken, shall be communicated to the petitioner within four weeks of presentation of certified copy of this order before Respondent No.3.

(A.S.NAYAL)
MEMBER (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JANUARY 04, 2019
DEHRADUN

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