

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

Present: Hon'ble Mr. Ram Singh

----- Vice Chairman (J)

Hon'ble Mr. A.S.Nayal

-----Member (A)

CLAIM PETITION NO. 04/NB/SB/2018

Constable 690 Civil Police Girish Chandra Joshi S/o Ganga Dutt Joshi,
presently posted in the office of Circle Officer, Bazpur, Udham Singh Nagar.

.....Petitioner

VERSUS

1. State of Uttarakhand through Secretary, Home, Dehradun.
2. Additional Director General of Police, Administration, Police Headquarters, Uttarakhand Police, Dehradun.
3. Inspector General of Police, Kumaon Division, Nainital.
4. Superintendent of Police, Udham Singh Nagar.

.....Respondents

Present: Sri D.S.Mehta, Ld. Counsel
for the petitioner
Sri V.P. Devrani, Ld. A.P.O.
for the Respondents.

JUDGMENT

DATED: APRIL 09, 2019

HON'BLE MR. RAM SINGH, VICE CHAIRMAN (J)

1. The petitioner has filed this claim petition for the following relief:

"a) To call the entire record and quash the impugned order dated 30.10.2017 (Annexure: 1) passed by respondent No. 4 and 05.12.2017 (Annexure: 2) passed by respondent No.3.

b) To issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

c) Award cost of the petition. ”

2. Briefly stated, the facts are that in the year 2016, while posted as Constable at Chowki Beriadaulat, P.S. Kelakhera, district Udham Singh Nagar, petitioner remained absent for two days on 22.07.2016 and 23.07.2016, without prior sanction of leave. He was served with a show cause notice dated 25.09.2017, for such absence and was required to submit his reply as to why a censure entry be not recorded in his character roll. The reply submitted by the petitioner on 07.10.2017 was not found satisfactory; he was found guilty of unauthorized absence for two days; and considering the medical documents about illness of the son of petitioner, he was sanctioned two days Earned Leave. But, in view of the later part of the show cause notice, he was punished vide order dated 30.10.2017 (Annexure: 6) and appeal preferred by the petitioner was also dismissed. Hence, this petition was filed by the petitioner for the abovementioned relief.

3. The petition was opposed by the respondents, on the ground that at the relevant point of time, in the year 2016, petitioner was not found in the barrack during duty hours on 22.07.2016; his absence was recorded in the G.D.; and it was also found that during such absence period, petitioner secretly contacted the local electronic media and provided them his bites levelling false accusation by him, against his superiors. Such bite was published and circulated in various electronic media channels and daily newspapers, leading to integration of the reputation of his department. On this count, a preliminary inquiry was also conducted by Circle Officer (C.O.), Bazpur, who after concluding the inquiry, submitted his preliminary inquiry report to the respondent No. 4. Thereafter, a show cause notice was issued to the petitioner, against which, the petitioner submitted his reply, which was found unsatisfactory and for such misconduct, petitioner was awarded the

punishment, which is as per law. There has been no illegality or irregularity in the procedure and case against the petitioner is full of evidence. The present claim petition has no legal force and deserves to be dismissed.

4. In the rejoinder, petitioner reiterated the same facts as in his petition and also submitted that the ground of illness of his son and his mental stress, was not considered by the disciplinary authority and his past unblemished service record was totally ignored and the claim petition deserves to be allowed.

5. We have heard both the sides and perused the record.

6. It is an admitted fact to the petitioner that during his posting at Chowki Beriadaulat, P.S. Kelakhera, district Udham Singh Nagar in the year 2016, he became absent on 22.07.2017 and 23.07.2017(for two days). He has contended that his son was seriously ill and he could not inform his superior officers and later or submitted his explanation for absence.

7. The court finds that after recording the absence of the petitioner, a preliminary inquiry was conducted by the Deputy Superintendent of Police (C.O.), Bazpur and thereafter, alongwith report of inquiry, a show cause notice was served upon him, in which, reply was sought on two counts, firstly, about his unauthorized absence, without prior sanction and secondly, about contacting the media and giving them the bites levelling some allegations against his superior officers. Learned A.P.O. on behalf of the respondents has contended that a public servant is prohibited under the Conduct Rules, to go into the media on such matters. The petitioner was found guilty of such misconduct in the preliminary inquiry. Show cause notice was also given to the petitioner and in his reply to the show cause notice, the petitioner did not submit any sufficient explanation for this conduct. After considering his explanation and looking into his plea

about illness of his son, he was granted two days Earned Leave for 22.07.2017 and 23.07.2017 instead of leave without pay, but considering his conduct of contacting media, during his absence period and giving some bites and getting the same circulated in the media, the petitioner was awarded the impugned punishment.

8. The court cannot go into the factual aspect of the matter. Furthermore, in the preliminary inquiry, petitioner was given sufficient opportunity of hearing; he was further given opportunity of hearing through a proper show cause notice, after concurring with the findings of the inquiry officer and thereafter, disagreeing with the explanation of the petitioner, the disciplinary authority passed the impugned punishment of censure entry, which is as per law. The court finds that there is no procedural irregularity or illegality in it. All the provisions of law and principles of natural justice were followed and there is no breach of any service rules. His appeal was also duly considered on merits and decided with reasons.

9. In these circumstances, this court finds that there is no ground to interfere in the orders passed by the respondents. The petition devoid of merit, deserves to be dismissed.

ORDER

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

(A.S.NAYAL)
MEMBER (A)

(RAM SINGH)
VICE CHAIRMAN (J)

DATE: APRIL 09, 2019

NAINITAL

KNP