

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

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

Hon'ble Mr. Rajeev Gupta  
-----Vice Chairman (A)

**CLAIM PETITION NO. 145/DB/2019**

Dinesh Singh Negi S/O Late Sh. Soban Singh Negi, aged about 43 years, r/o Race Course Police Line, Dehradun.

.....Petitioner

**VS.**

1. State of Uttarakhand through Secretary, Home, Civil Secretariat, Dehradun.
2. Director General of Police, Uttarakhand, Dehradun.
3. Inspector General of Police, Garhwal Region, Uttarakhand.
4. Presiding Officer/ Superintendent of Police (Crime), Dehradun.

.....Respondents.

**Present:** Sri Shashank Pandey, Counsel for the petitioner.  
Sri V.P.Devrani, A.P.O., for the Respondents

**JUDGMENT**

**DATED: NOVEMBER 28, 2019**

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

Petitioner, by means of present claim petition, seeks (i) to quash the charge sheet dated 21.06.2019 against him, and (ii) to direct the respondents to permit the petitioner to discharge his duties, among other reliefs.

2. Petitioner was a Constable, who was promoted to the post of Sub-Inspector, Local Intelligence Unit (LIU), and is working with

Uttarakhand Police. A charge sheet dated 21.06.2019 has been issued against him under Rule 14(1) of the Uttarakhand (Uttar Pradesh) Police Officers of Subordinate Rank (Punishment & Appeal) Rules, 1991 [Adaptation & Modification Rules, 2002] (hereinafter referred to as the Rules of 2002), for being absent from duty since 04.04.2019.

3. The submission of Ld. Counsel for the petitioner is that the charge sheet is (i) vague, and (ii) has wrongly been issued under Rule 14(1) of the Rules of 2002, which pertains to major penalties, which is disproportionate to alleged charge against the delinquent. Ld. A.P.O. vehemently opposed such submission.

4. The principal contention of the Ld. Counsel for the petitioner is that the charge against the petitioner is vague. According to Ld. Counsel for the petitioner, the charge sheet does not specify the number of days, the petitioner has been charged for unauthorized absence. This Tribunal, therefore, is duty bound to investigate, in present claim petition, as to whether the charge against the delinquent petitioner is vague or not?

5. Here is the charge:

The petitioner (S.I.) was relieved from Police Lines, Dehradun on 04.04.2019, to give joining in Local Intelligence Unit, Dehradun. The delinquent did not give his joining in LIU, Dehradun (since 04.04.2019). [the charge sheet (Annexure: A 1) is dated 21.06.2019]. Unauthorized absence of the petitioner from duty is indicative of his carelessness and indiscipline, which entails punishment under Rule 14(1) of the Rules of 2002. Petitioner has been found guilty in preliminary enquiry and names of three witnesses have been given, who are proposed to prove the departmental case.

6. A very look of the aforesaid charge would indicate that it is clear on facts. Imputations are definite. It, therefore, follows that there is no vagueness in the charge. The petitioner was relieved on 04.04.2019 from Police Line, Dehradun. He was directed to give joining in LIU, Dehradun, which he did not. This Tribunal does not find any ambiguity in the said charge. Had the charge sheet been vague, the things would have been different. Neither the inquiry officer nor the Court can make a

premature assessment of the evidence while issuing or scrutinizing the charge sheet. The defence of the delinquent cannot be put forth. The allegations made against the delinquent are *per se* taken into account. The possible defence that the delinquent may later put up, is not open to review. The Tribunal has power to sift and weigh the proposed evidence for the limited purpose of finding out whether or not a *prima facie* case against the delinquent has been made out. No close scrutiny is permissible at the stage of charge sheet. Charges cannot be gone into meticulously. Charge should, however be unambiguous and not vague. Here the charge is not vague, in as much as it has clearly been indicated that the delinquent S.I. was relieved from Police Lines, Dehradun on 04.04.2019, to give joining in Local Intelligence Unit, Dheradun, but this order was not complied with. This is *prima facie* a misconduct, and therefore, attracts charge.

7. It is also the submission of Ld. Counsel for the petitioner that the procedure, as laid down under sub-rule (2) of Rule 14 of the Rules of 2002, ought to have been followed by the inquiry officer, and not the procedure under sub-rule (1) of Rule 14 of such Rules
8. Rule 14(1) of the Rules of 2002 reads as below:
 

**“14. Procedure for concluding departmental proceedings.— (1) subject to the provisions contained in these Rules, the departmental proceedings in the cases referred to in sub-rule (1) of rule 5 against the police officers may be conducted in accordance with the procedure laid down in Appendix –I.”**
9. It is settled law of the land that procedure meant for major penalty may be adopted, even if the disciplinary authority finally comes to the conclusion that the misconduct entails minor penalty, but the converse is not true. Procedure adopted for imposition of minor penalty cannot be used to give major penalty. Procedure wise, the opposite is permissible.
10. Hence, this Tribunal does not find substance in the submission of Ld. Counsel for the petitioner that the charge sheet should be quashed, if the procedure under Rule 14(2) of the Rules of 2002 has been adopted.
11. The delinquent S.I., who is a Government servant, is also governed by Uttaranchal (now Uttarakhand) Government Servant

Conduct Rules, 2002. Sub-rule (1) & (2) of Rule 3 of Uttaranchal Government Servant Conduct Rules, 2002 are important in this context, which read as below:

**“3. General-**(1) Every Government servant shall at all times maintain absolute integrity and devotion to duty.

(2)Every Government servant shall at all times conduct himself in accordance with the specific of implied orders of Government regulating behavior and conduct which may be in force.

(3).....”

12. The sweep and ambit of such Rule is very wide. The charge levelled against the delinquent petitioner is indicative of ‘misconduct’, subject to proof.
13. At the time of scrutinizing the charge sheet, the Tribunal is not expected to go for roving inquiry, for, regular departmental inquiry is in the offing, the charge sheet is only a beginning.
14. This Tribunal, therefore, does not find substance in the contention of Ld. Counsel for the petitioner that the charge sheet against the delinquent petitioner is vague and ambiguous. Correctness or otherwise of the contents of charge sheet is not to be seen in judicial review.
15. No other point is argued on behalf of petitioner. The claim petition, therefore, fails and is hereby dismissed at the admission stage itself.

**(RAJEEV GUPTA)**  
VICE CHAIRMAN (A)

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

*DATE: NOVEMBER 28, 2019*  
*DEHRADUN*

VM