

**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. 26/NB/SB/2019

Devendra Prasad Bhatt, S/o Shri Prayag Dutt Bhatt, presently posted as
Collection Amin, Tehsil Champawat, District Champawat.

.....Petitioner

VERSUS

1. State of Uttarakhand through Secretary, Revenue Department,
Government of Uttarakhand, Dehradun.
2. Commissioner, Kumaun Division, Nainital.
3. District Magistrate, Chapawat.
4. Sub Divisional Magistrate, Shri Purnagiri (Tanakpur), District Chapawat.

.....Respondents

Present: Sri T. C. Pandey, Ld. Counsel
for the petitioner
Sri Kishore Kumar, Ld. A.P.O.
for the Respondents

ORDER

DATED: NOVEMBER 06, 2019

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

1. The petitioner while serving as Collection Amin, in district
Champawat, was punished by respondent No. 3 (District Magistrate,
Champawat). After holding an inquiry through Sub Divisional
Magistrate, and finding the petitioner guilty carelessness in recovery
proceedings and for embezzlement of Rs. 15,000/, the punishment of
censure entry and stoppage of increment for one year, was passed on
31.07.2012.
2. It is contended by the petitioner that he was not aware
about the fact that any statutory appeal is available to him, neither he

was advised in the order dated 31.07.2012 for such appeal, against the punishment order, passed by the respondent No. 3, and when, he requested for granting him second financial up-gradation, after completion of 16 years of service w.e.f. 09.11.2016, he came to know about this punishment. When his representation for second ACP was rejected on 30.08.2018, then he filed a statutory appeal on 05.12.2018 along with delay condonation application before the Commissioner, Kumoun, against the order dated 31.07.2012, passed by the respondent No. 3, which was rejected on 11.01.2019, on the ground of delay, mentioning that it was not filed within the prescribed period of 90 days. Thereafter, present petition was filed alongwith the delay condonation application.

3. In the affidavit annexed with the delay condonation application, the petitioner has taken the ground that due to lack of knowledge about the provision of statutory appeal, he could not file an appeal within the stipulated time, against the order, passed by the respondent No. 3. After rejection of his representation, he came to know about the remedy of the departmental appeal. It is also contended that he was under the impression that against the punishment order, passed in 2012, there was no departmental remedy. Petitioner has contended that the delay is not deliberate and on account of the reasons, mentioned in the affidavit, the delay should be condoned.

4. Respondents have opposed the application of the petitioner, on the ground that petitioner was duly informed about the punishment in the year 2012, but he did not file any statutory appeal against the same, and after a period of seven years, the statutory appeal filed by him, was rejected, as there were no sufficient reasons for condonation of delay. Hence, the petitioner, by not filing the statutory appeal, accepted the order dated 31.07.2012 and just to fill up the gap, and to approach this Tribunal, statutory departmental appeal was filed after a

long delay of seven years, hence, his appeal as well as this petition is barred by limitation. Under the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003, the limitation period for departmental appeal is 90 days and for filing claim petition before the court, the limitation period is one year. Hence, petition is badly time barred.

5. After hearing both the sides and perusal of the record, we came to the conclusion that the petitioner was having knowledge of the punishment order, passed on 31.07.2012. It is not his case that he was not informed for the same, rather he has taken a plea that he was of the view that there is no remedy against the punishment order, whereas, remedy was available in the Discipline and Appeal Rules and thereafter, under the Uttarakhand Public Services Tribunal Act, within a period of one year. Petitioner not only approached this court very late, but before the statutory departmental authority, he filed his appeal after a long period of seven years. Ignorance of rules and law, cannot be excused, hence, court finds that the grounds for condonation of delay are not sufficient and the statutory appeal as well as petition is badly time barred. There is no justifiable ground to condone such long delay. The delay condonation application, filed by the petitioner, deserves to be rejected.

6. The delay condonation application filed by the petitioner is hereby rejected. Consequently, the petition being time barred, is also dismissed in limine, at the very stage of admission.

(A.S.NAYAL)
MEMBER (A)

(RAM SINGH)
VICE CHAIRMAN (J)

DATE: NOVEMBER 06, 2019
NAINITAL
KNP