

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

(THROUGH AUDIO CONFERENCING)

REVIEW APPLICATION NO. 06/SB/2020

Sunil Panwar s/o Sri Gabar Singh aged about 38 years, presently working on the post of Sub Inspector, Civil Police, under the respondent department at Thana Kotdwar.

.....Petitioner

VS.

1. State of Uttarakhand through Secretary (Home), Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Deputy Inspector General of Police, Garhwal Region, Uttarakhand.
3. Senior Superintendent of Police, Dehradun, Uttarakhand.

.....Respondent.

Present: Shri V.P. Sharma, Counsel for the petitioner.
Sri V.P.Devrani, A.P.O., for the Respondents.

JUDGMENT

DATED: OCTOBER 14, 2020.

JUSTICE U.C.DHYANI (ORAL)

Delay condonation application has been filed for reviewing the order dated 07.12.2018, passed by Ld. Vice Chairman (A) of the Tribunal.

2. The claim petition No. 46/SB/2018 was dismissed by Ld. Single Member of this Tribunal on 07.12.2018. Petitioner-review applicant had filed the claim petition for setting aside the punishment order dated 21.06.2017, passed by Respondent No.3, SSP, Dehradun and appellate order dated 06.02.2018, passed by Respondent No. 2, DIG, Garhwal Region, along with its operation and effect with consequential benefits.

A prayer was also made for direction to delete the endorsement of censure entry from the character roll of the petitioner.

3. After considering the material brought on record, Ld. Single Member decided to dismiss the petition. The claim petition was, accordingly, dismissed.
4. According to sub-rule (2) of Rule 17 of the aforesaid Rules, the review petition shall ordinarily be heard by the same Bench which has passed the order, unless, for reasons to be recorded in writing, the Chairman directs that it be heard by any other Bench.
5. Sri D.K.Kotia, Ld. Vice Chairman (A), who has passed the order, has since retired, therefore, it is not possible to lay the review application before him.
6. There is inordinate delay in filing the review application. An application for condonation of delay has, therefore, been filed, along with affidavit, for condoning the delay. The reason cited in the review application is that order dated 07.12.2018 came to knowledge of the review applicant only on 18.03.2020, whereafter the petitioner-review applicant was busy in Covid-19 duties. According to the review applicant, certified copy of the judgment was taken by him from the Tribunal only on 19.03.2020 (*wrongly mentioned as 19.09.2020*).
7. Written objections have been filed by Ld. A.P.O. on the maintainability of the present review application.
8. Judgment dated 07.12.2018 was passed within the knowledge of Sri L.K.Maithani, Ld. Counsel for the petitioner. It is trite law that, normally, knowledge to the Counsel amounts to knowledge to the litigant. Plea taken that the judgment dated 07.12.2018 came to the knowledge of the review applicant only on 18.03.2020, appears to be inconceivable. It is well within the knowledge of everyone that the lockdown in Uttarakhand started on 23.03.2020. The petitioner-review applicant, therefore, through newly engaged Counsel, took an excuse that the judgment came to his knowledge only on 18.03.2020, so that

he could show that the review application could not be filed within time, during normal days, and thereafter, during pandemic Covid-19.

9. As per sub-rule (1) of Rule 17 of the Uttar Pradesh Public Services Tribunal (Procedure) Rules, 1992, no petition for review shall be entertained unless it is filed within 30 days from the date of the order of which the review is sought.
10. The review application has been filed too late. The grounds mentioned in the delay condonation application appear to be insufficient.
11. Although review application could have been dismissed on this ground alone, but assuming, for the sake of arguments, that the review applicant has been able to show sufficient cause for condoning the delay, therefore, it will be appropriate on the part of this Tribunal to decide the review application on merits as well.
12. The imputation relates to an accident (rash and negligent driving causing grievous injury). As per the insinuation, the investigation of the case remained with the review applicant from 08.08.2016 to 07.10.2016, but neither did he record the statement of the informant, nor recorded the statements of injured and medical officer. He also did not try to collect injury reports. The injured died on the following day of the accident. Section 304 A IPC should have been added to the Penal Sections, but the investigating officer-review applicant did not do so. Carelessness and negligence was, therefore, found in his working. He was, accordingly, punished with censure entry. It is the submission of Ld. Counsel for the petitioner that the petitioner performed his duty with complete devotion. According to the pleadings, there was no dereliction of duty by the petitioner. The statement of the doctor and injured could not be taken by the petitioner due to exigency of work, and not on account of negligence and carelessness. The punishment order, according to Ld. Counsel for the review applicant should, therefore, be set-aside. An additional ground has also been taken that the punishment is harsh and disproportionate to the act of the petitioner.

13. Ld. Vice Chairman (A), while dismissing the claim petition, on merits, on 07.12.2018, has appropriately dealt with the facts of the case and rules relating to departmental proceedings. The petitioner was investigating officer of the Case, in the investigation of which, carelessness was attributed to him. He could have been granted severe punishment also, but the SSP thought it appropriate to award him only a censure entry. The appellate authority (DIG, Garhwal Region) affirmed the order of SSP, Dehradun.
14. There is no error apparent on the face of record. By way of filing present review application, the review applicant seeks to reargue the claim petition, which is not permissible in law.
15. The review application, therefore, fails and is dismissed.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: OCTOBER 14, 2020.
DEHRADUN

VM