

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

CLAIM PETITION NO. 63/SB/2024

Kundan Singh Agri, aged about 39 years, s/o Sri Devendra Ram, Lans Naik, (Reserve 2642), 46th Battalion P.A.C. Task Force, Udham Singh Nagar, Uttarakhand.

.....Petitioner

VS.

1. State of Uttarakhand through Secretary, Home, Secretariat, Dehradun.
2. Commandant 46th Battalion, P.A.C. Rudrapur, Udham Singh Nagar.
3. Deputy Inspector General of Police, Dehradun.

.....Respondents.

Present: Sri Manish Kumar Singh, Advocate, for the petitioner.
Sri V.P.Devrani, A.P.O., for State Respondent No. 1.

JUDGMENT

DATED: JULY 12, 2024

Justice U.C.Dhyani (Oral)

The petitioner has filed present claim petition to set aside the impugned appellate order dated 03.11.2021 issued by Respondent No.3 (Annexure: A 2) against impugned order dated 22.06.2021 (Annexure:

A 1) issued by Respondent No.2, under Section 23 of the Uttarakhand Police Act, 2007.

2. Ld. Counsel for the petitioner drew attention of the Tribunal towards Paras 4.a to 4.u of the claim petition, to submit that the petitioner wants to file revision against the impugned orders to highlight these points before the revisional authority, therefore, liberty may be granted to him to file statutory revision. The Tribunal need not reproduce those grounds, for, they are already part of record.

3. Ld. Counsel for the petitioner submitted that, earlier, an attempt was made by the petitioner to file revision application against the order dated 22.06.2021, but the same was returned to him by the Company Commander 46th Battalion PAC, Rudrapur, *vide* letter dated 03.11.2023, on the ground that the revision against the appellate order is not maintainable. This was done on the basis of letter dated 25.04.2015, issued by the Additional Secretary, Home, Govt. of Uttarakhand. Ld. Counsel for the petitioner further submitted that the Hon'ble High Court of Uttarakhand in a number of decisions, including the one WPSS No. 1451 of 2021, has observed that the revision is maintainable under the Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991 (for short, the Rules of 1991) and the Uttarakhand Police Act, 2007.

4. Rule 23 of the Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991, as applicable to State of Uttarakhand, reads as below:

“23. Revision-(1) An officer whose appeal has rejected by any authority subordinate to the Government is entitled to submit an application for revision to the authority next in rank above by which his appeal has been rejected within the period of three months from the date rejection of appeal . on such an application the power of revision may be exercised only when in consequent of flagrant irregularity , there appears to have been material injustice or miscarriage of justice.

.....

.....

(2)

[Emphasis supplied]

5. Hon'ble Court passed order on 24.12.2021 in WPSS No. 1451 of 2021, as follows:

"As would be apparent from the scrutinization of the impugned orders, which are challenged by the petitioner in the present writ petition.

The order of punishment has been imposed upon the petitioner by the respondents authority, while exercising their powers under Uttar Pradesh Police Officers and Subordinate Rank, Rules, 1991, which has been made applicable, even after the enforcement of the Uttarakhand Police Act, 2007.

As a consequence of the set of allegations of misconduct levelled against the petitioner, by virtue of the impugned order, which has been passed while exercising the powers under Section 23 (1) (d) of the Uttarakhand Police Act, 2007, the petitioner was placed under the lowest in the cadre for a period of one year. As against the principal order of punishment passed by the Deputy Inspector General of Police, on 20.02.2021, the petitioner preferred an appeal under the Rules of 1991, which too has been dismissed.

Under the Rules of 1991, if any person is aggrieved by an appellate order, imposing the punishment for the misconduct, provided under the Rules, a provision of revision has been contemplated under Rule 23 of the Rules.

Hence, this writ petition is dismissed with the liberty left open for the petitioner to approach before the next superior authority, to the appellate authority to file a revision under Rule 23 of the Rules of 1991."

[Emphasis supplied]

6. Thus the mandate of the Hon'ble High Court, in the above noted writ petition, is that the revision is maintainable against such orders. Had the revision not been maintainable, the Hon'ble Court would not have passed such an order.

7. It is thus clear that the revision against the appellate order is maintainable. Ld. A.P.O. agrees to such legal proposition.

8. The petitioner has statutory remedy to file revision under Rule 23 of the Rules of 1991, which opportunity cannot be denied to him by the Tribunal, inasmuch as, to file revision is his entitlement.

9. The claim petition thus stands disposed of, at the admission stage, with the consent of Ld. Counsel for the parties, leaving it open to the petitioner to file statutory revision under Rule 23 of the Rules of 1991, as prayed for by him. Delay, if any, in filing the same is condoned in the interest of justice. No order as to costs.

10. Rival contentions are left open.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JULY 12, 2024.
DEHRADUN

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