

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

Present: Hon'ble Mr. Capt. Alok Shekhar Tiwari

----- Member (A)

Claim Petition No. 92/NB/SB/2020

Pankaj Joshi, aged about 37 years (Male), S/o Shri Hansh Kumar Joshi, presently posted as Station Officer, Baijnath, District Bageshwar

..... Petitioner

Versus

1. State of Uttarakhand, through Secretary, Home Affairs, Civil Secretariat, Dehradun.
2. Director General of Police, Uttarakhand, Dehradun.
3. Deputy Inspector General of Police, Kumaon Regional, Nainital.
4. Senior Superintendent of Police, Udham Singh Nagar, District Udham Singh Nagar.

..... Respondents

Present : Sri D. N. Sharma, Advocate for the petitioner (Online)
Sri Kishore Kumar, A.P.O. for the respondents

JUDGMENT

DATED : **MARCH 20, 2025**

This claim petition has been filed seeking the following relief:-

- “a). to set-aside the impugned order dated 30.04.2019 passed by respondent no. 4 (contained as **Annexure No. 1** to this petition) and impugned order dated 09.07.2019 passed by respondent No. 3 (contained as **Annexure No. 2** to this petition).
- 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. In brief, the facts of the case are that in the year 2014, when the petitioner was posted at Police Station Chowki Kelakhera, District Udham Singh Nagar, one FIR bearing FIR No. 99 of 2014 for the offence punishable under Section 364 of IPC ‘State Vs. Ram Khelawan & others’ was lodged at Police Station Jamo, District Amethi (Uttar Pradesh), but due to jurisdiction the FIR was transferred at Police Chowki Kelakhera, District Udham Singh Nagar and the entire file was transferred to Police Station-Kelakhera and the petitioner was appointed as the Investigating Officer. The allegations against the petitioner is that one FIR bearing FIR No. 99 of 2014 for the offence punishable under Section 364 of IPC ‘State Vs. Ram Khelawan & others’ at Police Station Jamo of District Amethi, but due to jurisdiction the FIR was transferred at Police Station Chowki Kelakhera, District Udham Singh Nagar and the entire file was transferred to Police Station-Kelakhera and the petitioner was appointed as the Investigating Officer, but after transferring the aforesaid case to the petitioner, the petitioner has not investigated the matter and he has not taken any action in the said FIR. Therefore, on 25.07.2018 the respondent No. 4 issued a show-cause notice to the petitioner stating therein that the conduct of the petitioner comes under the definition of gross negligence, indiscipline, laxity in duty and also directed the petitioner that Rule 14 (2) of Uttarakhand (U.P. Police Officers of the Subordinate Rank (Punishment and Appeal) Rules, 1991 Adaptation and Modification Order and also made adverse remark in the service-book of the petitioner. Thereafter, the statement of the petitioner was recorded by the Circle Officer, Bazpur, who submitted his report before the respondent No. 4 on 07.03.2019. In his statement the petitioner stated that due to work overload the petitioner could not investigate the matter properly and in the concluding line, the Circle Officer found the petitioner guilty for not discharging his duties honestly and diligently. After receiving the show-cause notice dated 25.07.2018, the petitioner preferred a detailed reply to show-cause notice and denied the

allegations levelled in the show-cause notice and stated that he was an appointee of 2001 in the Department on the post of Constable and thereafter, was promoted in the year 2015-16 and his entire career of about 18 years has been unblemished and there is no complaint whatsoever, about his work and conduct and also prayed that the aforesaid show-cause notice dated 25.07.2018 may kindly be set-aside. Without considering the material evidence available on record and going through the detailed reply submitted by the petitioner, vide impugned order dated 30.04.2019 the respondent No. 4 declared the petitioner guilty for dereliction of duty. Feeling aggrieved from the order dated 30.04.2019 the petitioner preferred a departmental appeal before the respondent No. 3, in which, he took various grounds of law and also prayed for that the entire service career of the petitioner is unblemished and there is no complaint, whatsoever, about his work and conduct and he is an innocent person and also prayed for set-aside the order dated 30.04.2019. Without going into the merit of the case and considering the grounds taken by the petitioner in his appeal, the respondent No. 3 rejected the appeal of the petitioner vide his order dated 09.07.2019. Hence, the claim petition has been filed by the petitioner before the learned Tribunal.

3. Ld. A.P.O. has filed counter affidavit on behalf of all the respondents, in which it has been stated that all the paragraphs of claim petition are unacceptable barring only those facts which are based upon documents. As per the learned A.P.O, the petitioner has been found guilty of not only an irresponsible behavior, but also of dereliction of duty as an Investigating Officer. It is noticeable that one Shyam Sundar Raidaas, the complainant, lodged an F.I.R No 99/2014 under Section 364 IPC in Police Station Jamo of the District Amethi of U.P. State against one Ram Khelawan, the accused. Since, the S.S.P., Amethi after the preliminary investigation of the matter realized that the place of crime was located at Kelakhera under the jurisdiction of Police Station Bazpur, District Udham Singh Nagar of State of Uttarakhand, he transferred the entire records of the case to District Udham Singh

Nagar under his covering letter No. 576/2013 dated 04.04.2014, wherein subsequently, this case was committed to Police Station Bazpur, who in turn nominated the petitioner as an Investigating Officer on 15.04.2014. The charges against the petitioner are that he did not investigate the case at all. Therefore, the respondent No. 4 awarded him an adverse entry on 30.04.2019. Before awarding the adverse entry to the petitioner, the respondent No. 4 gave a show-cause to the petitioner on 25.07.2018, regarding which the petitioner submitted his written explanation on 02.08.2018. Once the explanation of the petitioner was received the preliminary inquiry was given to Police C.O., Bazpur, District Udham Singh Nagar, who in turn submitted his enquiry report dated 07.03.2019 before the respondent No. 4. In the light of preliminary enquiry report, the petitioner's explanation was found to be a lame excuse and consequently on 30.04.2019 an adverse entry was awarded to the petitioner. Against this punishment order the first appeal was rejected by the D.I.G., Kumaon Range, Nainital, respondent No. 3, on 09.07.2019.

4. As per the learned A.P.O., there has been no deviation from the rules by respondent Nos. 4 & 3 respectively in awarding the adverse entry to the petitioner for his irresponsible conduct and dereliction of duty, and subsequently, in dismissing the appeal.

5. The learned A.P.O. drew attention of the Tribunal towards a delay of 05 months in filing the claim petition against the impugned orders dated 30.04.2019 and 09.07.2019, which cannot be condoned. This is important to note that the petitioner has to show reason of delay on day-to-day basis. The petitioner has failed in showing the appropriate reason. Therefore, the claim petition is liable to be dismissed.

6. Rejoinder affidavit has also been filed reiterating the facts mentioned in the present claim petition.

7. I have heard the learned Counsel for the parties and perused the records. Prima facie, the charges against the petitioner as an Investigating Officer are of very serious nature; the instant matter under Section 364 of IPC relates to abduction with intent to murder. It is noticeable that even if, the alleged crime might have been of a less gravity, the petitioner was duty bound to begin his investigation, which he never did. Even if, the petitioner might have made an opinion as Investigating Officer that the said crime was a false accusation or that in reality it never took place, the I.O. was duty bound to either expunge the case or submit a final report in the matter. Thus, in any eventuality the petitioner was supposed to prepare the investigation documents for submission before the Trial Court. By showing irresponsibility and dereliction of duty the petitioner has not only maligned the Police Department, but also committed disrespect towards the Trial Court. The petitioner has given explanation that due to overwhelming load of work on his shoulder he could not investigate the case. This attitude of the petitioner is a humiliation of his own police service. If an Investigating Officer shows no concern towards investigation of a heinous crime, then for what is he wearing the Police uniform and holding the rank of Police Chowki Incharge/Sub-Inspector?

8. There is no explanation as submitted by the petitioner valid enough to be accepted and hence, the adverse entry awarded to the petitioner and the subsequent dismissal of his appeal are found appropriate as per the rules and procedure.

9. It is on record that a delay condonation application was submitted by the petitioner which was supposed to be decided later as per the Tribunal's order dated 23.02.2021. The same is allowed under the landmark guidelines given by the Hon'ble Supreme Court in the light of COVID-19 epidemic, spread over most of the period in the year 2020.

ORDER

Accordingly, the claim petition is hereby dismissed. No orders as to cost.

(Capt. Alok Shekhar Tiwari)
Member (A)

DATE: MARCH 20, 2025
NAINITAL
BK