

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

**CLAIM PETITION NO. 115/SB/2023**

Dhanbir Singh, s/o Gindo Singh, r/o Maple Green, Phase 6,  
Rajeshwar Nagar, Gujrara Mansingh, Dehradun, Uttarakhand-  
248001.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, School Education,  
Government of Uttarakhand, Secretariat, Dehradun, Subhash  
Road, Dehradun.
2. Director General, School Education, Government of  
Uttarakhand.
3. Director, Elementary Education/ Primary Education,  
Uttarakhand.

..... Respondents

Present: Sri Abhishek Chamoli, Advocate, for the Petitioner  
Sri V.P. Devrani, A.P.O., for the Respondents

**JUDGEMENT**

**Dated: 20<sup>th</sup> December, 2023**

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

By means of present claim petition, petitioner seeks the  
following reliefs:

“(i) Issue an order or direction to Quash the Impugned  
Order dated 18.05.2023 passed By Respondent no. 1, by  
which Punishment of Censure Entry has been awarded in  
the service record of the petitioner, along with its effect and  
operation, after calling the entire record from the  
respondents and declaring the same arbitrary ,illegal and  
against the principles of natural justice and also contrary to  
the procedure laid down in Uttarakhand Government Servant

(Discipline and Appeal) Rules, 2003 and Amended Rules, 2010.

(ii) To pass such order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

(iii) To award the Cost of the Petition."

2. Brief facts giving rise to present claim petition are as follows:

2.1 When the petitioner was posted as Deputy Education Officer in Jakhanidhar, Tehri Garhwal, a charge-sheet was given to him on 09.12.2019. The imputation was that he did not deposit a sum of Rs. 60,000/- in Govt. Treasury and kept the same with him for seventeen months, during his probation period.

2.2 The main charge against the petitioner was that there was misappropriation of Govt. money, which comes within the definition of financial irregularity. Petitioner replied to the charge on 22.05.2020. Enquiry officer was appointed, who, after due enquiry, submitted the enquiry report on 15.07.2020. The charge of misappropriation of Govt. money was found proved by the enquiry officer. The report was submitted to the disciplinary authority/ punishing authority, who awarded the punishment of temporary stoppage of increment for three years. Petitioner filed representation against the same. Disciplinary authority set aside the punishment of temporary stoppage of increment for three years *vide* order dated 22.12.2022. Copy of the enquiry report was directed to be supplied to the petitioner. Response of the petitioner was called for, which the petitioner submitted on 28.12.2022. Being partly satisfied with the same, petitioner was awarded 'censure entry' on 18.05.2023 (Annexure No. 1).

3. It is the submission of learned A.P.O. that the petitioner committed financial irregularity when he was under probation period. Justifying the departmental action, learned A.P.O. submitted that there is no procedural irregularity in conducting the

enquiry and a lenient view has already been taken by the disciplinary authority. Sympathetical view has already been taken by the Govt. in a case of grave misconduct. Learned A.P.O. further submitted that there is no illegality in the impugned order, which might call for interference.

5. It is the submission of learned Counsel for the petitioner that although three charges were levelled against the petitioner but only charge no. 1 was proved against him and the petitioner was absolved of charges no. 2 and 3.

6. Learned Counsel for the petitioner drew attention of this Bench towards paras 4.14 to 4.25 of the claim petition, which are reproduced herein below for convenience:

“4.14 ..... it is pertinent to mention here that the petitioner was given additional charge in April, 2015 of Block Education Officer. .... as per letter no 2128-36 dated 18/01/2016 the training of iron and folic acid(albendazole) was proposed and orders were issued, in which training of total 196 teachers in 6 batches were targeted, for which amount of Rs 60000/- was sanctioned and same was directly credited into the account of Block Education Officer. As per the letter dated 25/01/2016 of District Institute of Education and Training (DIET), the said training was to be completed before 05/02/2016.

4.15 ..... it is pertinent to mention here that the petitioner was on leave from 25/01/2016 to 06/02/2016 and in the absence of the petitioner the charge of Deputy Education Officer and Block Education Officer Jakhanidhar was with then in-charge Principal, Government Inter-college Jakhanidhar. Moreover, the training on 01.02.03 February, 2016 was conducted at BRC Badkot and Government Inter-college Jakhanidhar as per the target and the expenses incurred during the training were paid by Shri Manmohan Singh Makhloga and the payments were done to the respective firms, vendors, trainees and M.T's through cash-in-hand by Shri Manmohan Singh Makhloga.

4.16 ..... after 3 months of the training a total of Rs 67,386/- as expenses of training was informed by Shri Manmohan Singh Makhloga and the same was claimed by him. After the claim of Shri Manmohan Singh Makhloga total amount of Rs 60000/- on 09/05/2016 was withdrawn from the bank by the petitioner and before making payment to Shri Manmohan Singh Makhloga the bills and other expenditure receipts of the expenses incurred during the duration of the training period was asked to be submitted before the petitioner for audit records.

4.17 ..... after asking several times Sri Manmohan Singh Makhloga presented bills of Rs 38,196/- before the department.

..... after evaluating the claim of Shri Manmohan Singh Makhloga and presented bills , it was found by the petitioner that there was a huge difference in total expenses claimed and bills presented. Hence, several times Shri Manmohan Singh Makhloga was intimated to present the legitimate bills of the amount claimed by him, but to no avail.

4.18 ..... the documents related to the training were evaluated and examined by the petitioner in which various anomalies were found, like signatures in the attendance sheet of the teachers were mismatched.

4.19 ..... Shri Manmohan Singh Makhloga was transferred to another Block Chamba Government Primary School Penula. .... thereafter, Shri Manmohan Singh Makhloga was again asked to submit bills and after seeking time on several occasions he submitted bills of Rs 42,552/- after a gap of 13 months. But after examining the bill it was found that the bills were not proper and there was huge difference between the claimed amount and presented bills. Thereafter, wife of Shri Manmohan Singh Makhloga Smt. Bharti Makhloga who is also employee of the department was also informed to present the correct bills, but to no avail.

4.20 ..... as the expenses of the training period were incurred by Shri Manmohan Singh Makhloga and the same was to be paid from the amount sanctioned by the government, the amount withdrawn by the petitioner was kept-in-hand. Thereafter, after various attempts a notice dated 05.07.2017 was served on Shri Manmohan Singh Makhloga. Even after the notice, when no bills were presented by Shri Manmohan Singh Makhloga, the amount of Rs 60000/- was deposited through challan dated 16/09/2017 in the account of the government.

4.21 ..... thereafter it was recommend by the petitioner to the concerned officer to take disciplinary action against Shri Manmohan Singh Makhloga for his negligence and misconduct through vide letter dated 09/10/2017. But instead of taking disciplinary action, Shri Manmohan Singh Makhloga was promoted to the post of Head Master.

4.22 ..... after completing the probation period, the service of the petitioner was made permanent *vide* order 18/05/2022.

4.23 ..... it is pertinent to mention here that the petitioner is Ex-Serviceman and retired person from Indian Army with an untainted and virtuous service record. His moral aptitude was always found high by his peers during his previous service and thereafter was selected in the Service of Government of Uttarakhand after clearing PCS-2010.

4.24 ..... the disciplinary authority while passing the impugned order never took into consideration the fact that the delay in depositing the amount of Rs 60000/- in the account of the government and keeping the same in hand by the petitioner was not deliberate and the delay was caused due to the negligence and misconduct shown by Shri Manmohan Singh Makhloga.

4.25 ..... the person due to whom the delay was caused namely Shri Manmohan Singh Makhloga was never questioned by the disciplinary authority and even after recommendation of the petitioner to take disciplinary action against him, he was promoted and no disciplinary action was taken against him.”

7. Learned Counsel for the petitioner further submitted that the petitioner is innocent and he never had the intention of misappropriating the Govt. funds. The factual and legal aspects taken under paras 4.14 to 4.25 were not considered by the disciplinary authority, he wants to file the review application to highlight these factual and legal aspects before the reviewing authority, therefore, liberty may be granted to him to file REVIEW under Rule 14 of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 (as amended in 2010).

8. In reply, learned A.P.O. submitted that permission of the Tribunal is not required for filing statutory representation.

8. Rule 14 of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 (as amended in 2010) (for short, ‘Rules of 2003’) reads as below:

**14. Review—** The Governor may, at any time, either on his own motion or on the representation of the concerned Government Servant review any order passed by him under these rules, if it has brought to his notice that any new material or evidence which could not be produced or was not available at the time of passing the impugned order or any material error of law occurred which has the effect of changing the nature of the case.

*[emphasis supplied]*

9. The petitioner has, therefore, statutory remedy to file representation to seek the review of the impugned order under Rule 14 of the Rules of 2003, which opportunity cannot be denied to him by the Tribunal.

10. The claim petition thus stands disposed of, leaving it open to the petitioner to file statutory representation under Rule 14 of the Rules of 2003, as prayed for by him. No order as to costs.

11. It is made clear that the Tribunal has not expressed any opinion on the merits of the case.

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

*DATE: 20<sup>th</sup> December, 2023*  
*DEHRADUN*  
*RS*