

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

Present: Hon'ble Mr. Rajendra Singh

----- Vice Chairman (J)

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**CLAIM PETITION NO. 100/SB/2020**

Shiv Prasad Uniyal, s/o Late Sri Govind Ram Uniyal, aged about 65 years,  
r/o 74/14 Salawala, Hathibarkala, Dehradun.

.....Petitioner

**vs.**

1. The Government of Uttarakhand through Principal Secretary, Forest, Civil Secretariat, Dehradun.
2. Principal Chief Conservator of Forest, (HoFF), Uttarakhand, Dehradun.
3. Chief Conservator of Forest, Administration, Garhwal, Dehradun.
4. Conservator of Forest, Bhagirathi Circle, Muni-Ki-Reti, Tehri Garhwal.
5. Divisional Forest Officer, Uttarkashi Forest Division, Uttarakashi.
6. Asst. Director, Directorate of Treasury, Uttarakhand, Dehradun.

.....Respondents

Present: Sri Shashank Pandey, Advocates, for the petitioner.  
Sri V.P.Devrani, A.P.O., for Respondents.

**JUDGMENT**

**DATED: JANUARY 20, 2023**

**Per : Sri Rajeev Gupta, Vice Chairman (A)**

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

“(i) To issue order or direction to the respondents quashing the impugned charge sheet dated 30.09.2020 along with its effect and operation also.

(ii) To issue order or direction directing the respondents to include the amount of Rs.2,00,104/- along with an interest @ 12% per annum from the date it was deducted from the gratuity of the petitioner till date of actual payment, as per Section 7(3a) of the Payment of Gratuity Act, 1972.

(iii) Any other relief which the Hon’ble Court may deem fit and proper in the circumstances of the case.

(iv) To award cost of this petition to the petitioner.”

2. Brief facts of the case are that the petitioner was earlier charge-sheeted on 23.08.2001, the charge-sheet was signed by the inquiry officer, petitioner replied to this charge-sheet, enquiry was conducted and then show cause notice was issued to the petitioner to show cause why major penalty be not imposed upon him. The petitioner replied to the same. However, the disciplinary authority without paying any heed to the reply of the petitioner, punished him vide order dated 11.11.2003 with three punishments. Petitioner’s representation, appeal and memorial to the Governor against the punishment order were rejected. Subsequently, the petitioner filed Claim Petition No. 57/DB/2019 before this Tribunal. The Tribunal vide its judgment and order dated 07.08.2019, set aside the punishment order and other orders vide which the representation, appeal and memorial of the petitioner were rejected and also the order by which a sum of Rs.200140/- was recovered from the gratuity of the petitioner. The Tribunal, however, left it open to the disciplinary authority to proceed afresh against the petitioner in accordance with law.

3. The petitioner was again served with a letter dated 30.09.2020, in which the disciplinary authority has proceeded afresh against the petitioner by issuing a new charge-sheet. Petitioner’s contention is that these departmental proceedings have been initiated against the judgment and order

dated 07.08.2019 of this Tribunal, passed in claim petition No. 57/DB/2019 and provisions of Article 351-A of the Civil Service Regulations. The allegations in the charge-sheet initiated afresh against the petitioner are in respect of events which took place more than four years before the institution of departmental proceedings on 30.09.2020. The petitioner has retired way back on 31.07.2014 and the charge-sheet has been served on him after lapse of more than four years from the date of his retirement.

4. The contention of the respondents is that in compliance of the directions passed by this Tribunal in Claim Petition No. 57/DB/2019, the new charge-sheet dated 30.09.2020, on the same charges has been served upon the petitioner by the disciplinary authority. It was incumbent on the part of the petitioner that he should have given the reply to the charge-sheet within the prescribed time, before the disciplinary authority so that further proceedings could be carried out, as per Rules. But the petitioner without cooperating in the departmental enquiry proceedings, as conducted against him in pursuance of the Tribunal's order and directions dated 07.08.2019, without furnishing reply to the charge-sheet, prematurely preferred the present claim petition for quashing the charge-sheet. When no reply to the charge-sheet was received from the petitioner, the disciplinary authority (Respondent No.4) appointed the Divisional Forest Officer, Uttarkashi (Respondent No.5) as inquiry officer in the matter vide his letter dated 22.02.2021. The inquiry officer gave many opportunities of defence/ hearing to the petitioner, but the petitioner willfully and deliberately did not furnish the reply to the charge-sheet. Thereafter, the inquiry officer submitted his enquiry report to the disciplinary authority vide his letter dated 22.07.2021. Copy of this enquiry report was sent to the petitioner by the disciplinary authority (Respondent No.4) vide letter 02.08.2021 and ample time was given to the petitioner for furnishing his representation against the same.

5. In view of the possibility of the procedural flaw in the departmental proceedings, the disciplinary authority (Respondent No.4) decided to initiate fresh departmental proceedings and, therefore, sent again a charge-sheet of the same charges to the petitioner vide his letter dated 07.08.2021 by registered post and the petitioner has received the same on 11.08.2021, as confirmed with the post office web portal. This charge-sheet

was also served upon the petitioner on his residential address by the departmental personnel, but the petitioner deliberately did not receive this letter. The disciplinary authority also informed the petitioner by means of newspaper notice dated 14.08.2021, granting him 15 days' time for furnishing his reply/ representation in view of charge-sheet. When no reply of this charge-sheet was received, the disciplinary authority (Respondent No.4) vide his letter dated 28.08.2021, appointed the Divisional Forest Officer, Uttarkashi (Respondent No.5) as inquiry officer in the matter. The inquiry officer vide his letter dated 01.09.2021, afforded an opportunity to the petitioner for appearing personally in his office to put forward his stand on defence. This letter was served upon the petitioner at his residential address. The petitioner was not at home and his wife refused to receive the letter, so the letter was pasted on the main gate of his house. The petitioner's wife was informed to convey the matter to the petitioner. Petitioner willfully and deliberately did not appear in the office of the inquiry officer and did not cooperate in the enquiry proceedings. The inquiry officer furnished his enquiry report on the basis of documentary evidence available in the record against the petitioner, in which Charges No. 1, 2 & 3 were found proved against the petitioner. Copy of this enquiry report was sent to the petitioner by the disciplinary authority vide his letter dated 04.09.2021 by registered post, affording him last opportunity for furnishing his representation, but the petitioner did not receive this letter. The same has been returned to the disciplinary authority by the post office.

6. The petitioner deliberately/ intentionally remained silent on the charge-sheet and various letters of disciplinary authority and inquiry officer. Thereafter the disciplinary authority passed the speaking order dated 13.09.2021 awarding the punishments to the petitioner, as the petitioner was found guilty of Charges No. 1, 2 & 3 of charge-sheet. Therefore, the present claim petition has become infructuous.

7. We have heard Ld. Counsel for the parties and perused the record. The Tribunal observes that the charge-sheet dated 30.09.2020, against which the claim petition has been filed, was not a *de novo* charge-sheet, but the charge-sheet issued to the petitioner in accordance with the liberty given to the disciplinary authority by this Tribunal vide order dated 07.08.2019 in

Claim Petition No. 57/DB/2019, after the earlier disciplinary proceedings were set aside. Therefore, the argument of Ld. Counsel for the petitioner that such proceedings were not permissible under Article 351-A of Civil Service Regulations, is not acceptable. The petitioner should have cooperated in the departmental proceedings pursuant to this charge-sheet, but he did not do the same.

8. The Tribunal also notes that, to ensure that there is no flaw in the disciplinary proceedings, the disciplinary authority (Respondent No.4) again issued a charge-sheet on the same charges to the petitioner vide his letter dated 07.08.2021 and thereafter also since the petitioner has not at all cooperated in the departmental proceedings, has issued the punishment order against the petitioner, after following due process as envisaged in the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 (as amended in 2010).

9. The Tribunal further observes that the respondents have not passed the punishment order upon the charge-sheet, issued to the petitioner vide letter dated 30.09.2020, against which present claim petition has been filed and in that sense, the claim petition has become infructuous. The Tribunal also agrees that it was lawful for the respondents to issue the charge-sheet dated 07.08.2021 based on the same charges and to conduct further departmental proceedings thereon.

10. In view of the above, the claim petition has no force and is hereby dismissed. No order as to costs.

**RAJENDRA SINGH**  
VICE CHAIRMAN (J)

**RAJEEV GUPTA**  
VICE CHAIRMAN (A)

*DATE: JANUARY 20, 2023*  
*DEHRADUN*