

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

**CLAIM PETITION NO. 65/ SB/2021**

Ms. Meena Kandwal, aged about 35 years, Mahila Constable No. 338, Thana Kotwali, Laksar, District Haridwar, Uttarakhand.

.....Petitioner

versus

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

..... Respondents

Present : Sri L.K. Maithani, Advocate, for the petitioner  
Sri V.P. Devrani, A.P.O., for the respondents (online)

**JUDGEMENT**

**Dated: 11<sup>th</sup> April, 2023**

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

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

“(a) To quash the impugned punishment order dated 18.06.2020 (Annexure No. A-1) passed by S.S.P. Haridwar and impugned appellate order dated 06.11.2020 (Annexure No. A-2) passed by respondent no. 2 with its effect and operation and with all consequential benefits.

(b) To issue any other order or direction which this Court may deem fit and proper in the circumstances of case in favour of the petitioner.

(c) To award the cost of petition.”

2. On 05.09.2019, petitioner-lady constable was posted as G.D. Writer in Police Line, Haridwar. On such date, entries from serial no. 17 to 31 were made by the petitioner in her own handwriting, in General Diary (G.D.). The imputation against the petitioner is that the petitioner did not obtain the signatures of some of the officials in G.D. In her explanation, the petitioner stated that she could not peruse, because of rush in the office, whether all the employees have appended their signatures in the G.D. or not.

2.1 The disciplinary authority gave 'censure entry' to the petitioner on account of the fact that the petitioner did not obtain the signatures of all the employees in the G.D., at the time of sending them on accused command duty (*mulzim kaman duty*).

2.2 A show cause notice was sent to the petitioner. She replied to the same. Such reply was not found to be satisfactory by the disciplinary authority (S.S.P. Haridwar). Hence, a direction was given by such authority to award 'censure entry' to the petitioner on 18.06.2020 for the year 2020 (copy Annexure: A1).

2.3 Delinquent petitioner filed the departmental appeal against the same. Departmental appeal was dismissed by the appellate authority *vide* order dated 06.11.2020 (copy Annexure: A2).

2.4 Aggrieved with the impugned orders, the petitioner has filed the present claim petition.

3. Learned A.P.O. submitted that there is no illegality in the orders under challenge, as reflected in C.A./ W.S of the respondent department. He defended departmental action with vehemence. He also submitted that whenever a constable or head constable goes on *gard duty* with firearms and ammunitions, it is incumbent upon the G.D. writer to, not

only make entry of the same in the G.D., but also obtain signatures of such police officials (in the G.D.). In response to the query of the Bench, learned A.P.O. submitted that nowadays the entries in the G.D. are made online, but during the period of the incident in question, the entries were made manually.

4. Learned Counsel for the petitioner, on the other hand, assailed the orders impugned on legal grounds.

5. Facts of the case are not disputed. Even if all the facts of the departmental case be admitted to be true, the impugned orders should not be allowed to sustain, on legal grounds, notwithstanding the fact that scope of intervention in judicial review is very limited.

6. Hon'ble Supreme Court, in a catena of decisions has dealt with the scope of judicial interference in administrative action. What is the extent of Court's power of judicial review on administrative action? This question has been replied in Para 24 of the decision in *Nirmala J. Jhala vs. State of Gujrat and others*, (2013) 4 SCC 301, as follows:

"24. The decisions referred to hereinabove highlight clearly, the parameter of the Court's power of judicial review of administrative action or decision. An order can be set aside if it is based on extraneous grounds, or when there are no grounds at all for passing it or when the grounds are such that, no one can reasonably arrive at the opinion. The Court does not sit as a Court of appeal but, it merely reviews the manner in which the decision was made. The Court will not normally exercise its power of judicial review unless it is found that formation of belief by the statutory authority suffers from mala fides, dishonest/ corrupt practice. In other words, the authority must act in good faith. Neither the question as to whether there was sufficient evidence before the authority can be raised/ examined, nor the question of re-appreciating the evidence to examine the correctness of the order under challenge. If there are sufficient grounds for passing an order, then even if one of them is found to be correct, and on its basis the order impugned can be passed, there is no occasion for the Court to interfere. The jurisdiction is circumscribed and confined to correct errors of law or procedural error, if any, resulting in manifest miscarriage of justice or violation of principles of natural justice. This

apart, even when some defect is found in the decision making process, the Court must exercise its discretionary power with great caution keeping in mind the larger public interest and only when it comes to the conclusion that overwhelming public interest requires interference, the Court should intervene.”

*[emphasis supplied]*

7. The limited scope of judicial review has also been assigned by Hon'ble Supreme Court in *JohriMal's case*, (1974) 4 SCC 3, as below:

“28. The scope and extent of power of the judicial review of the High Court contained in Article 226 of the Constitution would vary from case to case, the nature of the order, the relevant statute as also the other relevant factors including the nature of power exercised by the public authorities, namely, whether the power is statutory, quasi-judicial or administrative. The power of judicial review is not intended to assume a supervisory role or don the robes of the omnipresent. The power is not intended either to review governance under the rule of law nor do the courts step into the areas exclusively reserved by the supremalex to the other organs of the State. Decisions and actions which do not have adjudicative disposition may not strictly fall for consideration before a judicial review court. The limited scope of judicial review, succinctly put, is:

(i) Courts, while exercising the power of judicial review, do not sit in appeal over the decisions of administrative bodies.

(ii) A petition for a judicial review would lie only on certain well-defined grounds.

(iii) An order passed by an administrative authority exercising discretion vested in it, cannot be interfered in judicial review unless it is shown that exercise of discretion itself is perverse or illegal.

(iv) A mere wrong decision without anything more is not enough to attract the power of judicial review; the supervisory jurisdiction conferred on a court is limited to seeing that the Tribunal functions within the limits of its authority and that its decisions do not occasion miscarriage of justice.

(v) The courts cannot be called upon to undertake the government duties and functions. The court shall not ordinarily interfere with a policy decision of the State. Social and economic belief of a Judge should not be invoked as a substitute for the judgment of the legislative bodies.”

*[emphasis supplied]*

8. Para 295 of the Police Regulations is most pertinent in the context of the case. The same reads as below:

“295. The following matters must be recorded in general diary:

(1) .....

(2) .....

(3) .....

(4) **Departure and return of police officers on and from duty**, transfer or leave.

(5) .....

.....

(19) .....”

*[emphasis supplied]*

9. Likewise, para 296 of Police Regulations reads as below:

“296. During the day, reports of all kinds must be entered immediately on the occurrence of the events to which they refer. During the night, reports of the following events must also be entered immediately:

(a) All offences and all events which require immediate action on the part of the officer-in-charge.

(b) Arrival or despatch of prisoners, money and property.

(c) Posting and relief of sentries when carried out by an officer under paragraph 59.”

10. The Regulations do not provide, anywhere, that the signatures of the police officials shall be appended on the G.D. The Tribunal could not lay its hand on such provision which envisages that the G.D. writer shall obtain the signatures of the police officials in the G.D., reserving the right of the respondent-State to seek review, if such provision really exists in the statute book.

11. Impugned orders, therefore, call for interference only on this purely legal ground. Impugned orders should, therefore, be set aside.

12. The impugned orders dated 18.06.2020 (copy Annexure: A1) and 06.11.2020 (copy Annexure: A2) are set aside. In the circumstances, there shall be no order as to costs.

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

*DATE: 11<sup>th</sup> April, 2023*  
*DEHRADUN*  
*RS*