

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

Present: Hon'ble Mr. Rajendra Singh

----- Vice Chairman(J)

Hon'ble Mr. A.S.Rawat

-----Vice Chairman(A)

**CLAIM PETITION NO. 06/NB/DB/2024**

Ishwarpuri, aged about 48 Years, S/o Sri Bishanpuri R/o Village-Guler Gurchhutti, Post office-Guler District Bageshwar.

**.....Petitioner**

vs

- 1- Commissioner, Kumaun Region, Nainital, District Nainital.
- 2- District Magistrate, Bageshwar, District - Bageshwar.
- 3- Senior Treasury Officer, Bageshwar District- Bageshwar.
- 4- State of Uttarakhand through Secretary, finance at Dehradun.

**.....Respondents**

Present: Sri Rahul Adhikari, Advocate for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondents

**JUDGMENT**

**DATED: AUGUST 22, 2025**

**Per: Hon'ble Sri A.S.Rawat, Vice Chairman (A)**

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

*"i. To set aside the order dated 30-01-2024 passed by respondent no. 1 and order dated 23-9-2023 passed by respondent no. 2 (contained in Annexure no. 1 & 2 to the claim petition).*

*ii- To Direct the respondents to reconsider the representation of the petitioner dated 11-10-2023 on merit as per the government order dated 18-12-2003.*

*iii- To pass any other suitable order, which this Hon'ble Tribunal may deem fit and proper on the basis of the facts and circumstances of the case.*

*iv- Award the cost of the petition to the petitioner.”*

2. Brief facts of the case, as per the claim petition, are as under:-

2.1 The petitioner is presently working as Assistant Treasury officer at Chief Treasury Office, Nainital. In the years 2009-10 and 2013-14, while petitioner was posted as Accountant in Sub-Treasury, Kapkot District-Bageshwar, the Reporting Authority i.e. Sub-Treasury Officer, Kapkot District-Bageshwar certified his integrity and given him entry for the years 2009-10 & 2013-14 as "Outstanding" in his remark and in the year 2014-15 while he was posted at Sub-Treasury, Garur District-Bageshwar, the Reporting Authority certified his integrity and given entry as "satisfactory" in the Annual Confidential Remark of the petitioner.

2.2 Thereafter, Reviewing Authority i.e. Senior Treasury Officer, Bageshwar certified his integrity but showing disagreement with the remarks given by Reporting Authority and gave his remark as "unsatisfactory" in place of "outstanding" for the annual remark relating to the year 2009-10 and 2013-14 and in place of "satisfactory" given his remark as "unsatisfactory" relating to the annual entry for the year 2014-15.

2.3 The Accepting/Final Authority i.e. District Magistrate, Bageshwar categorically mentioned that he agrees with the remarks made by Reporting Authority and certified the integrity of the petitioner but the remark was given "unsatisfactory" for the annual remarks relating to the years 2009-10 and 2013-14. Since the final authority agree with the remarks made by the Reporting Authority therefore, after being fully agree with the remark given by Reporting Authority, it is very unreasonable and arbitrary on the part of Accepting Authority to give his remark as "unsatisfactory".

2.4 With regard to the Annual Confidential Remarks relating to the year 2014-15, the Accepting/final authority on 21-7-2015 agreed with the remarks made by the Reporting/Reviewing Authority, certified

the integrity of the petitioner and gave entry as "Unsatisfactory" to the petitioner.

2.5 On 18.12.2003, the State Government issued a government order whereby provided the procedure regarding the annual entry in Character register, certificate of integrity, communicating the adverse entry and representation against it and disposal of representations. *Para 17 of the aforesaid government order categorically provides that if any adverse thing mentioned in the Annual report of the employee at the time of communicating the adverse part all the entry made by the reporting / reviewing/accepting authority shall also be intimated and further provides that "Whether any entry or any part of it is to be considered and communicated as adverse will be decided by the competent authority or the officer nominated by him. In case of adverse portion, the entire entry has to be reported. If any part is not considered as adverse and has not been communicated, that entry may be ignored at the time of evaluation".*

2.6 The respondents communicated information regarding adverse entry relating to year 2009-10 to the petitioner on 25.5.2010, adverse entry relating to year 2013-14 on 12.8.2014 and adverse entry relating to year 2014-15 on 03.08.2015. But the adverse entries given by the reporting/reviewing/accepting authority were not been communicated to petitioner as per Para 17 of the government order dated 18.12.2003 as all the entries made by the reporting/reviewing/accepting authority should have been intimated.

2.7 The petitioner came to know about the entry given by all reporting/reviewing/accepting authorities for the first time when the Counter Affidavit was filed by the respondents in earlier Claim Petition No. 71/NB/DB/2022 of the petitioner before this Tribunal and before this, he was never communicated the adverse part all the entries made by the reporting/reviewing / accepting authority.

2.8 Since the respondents have not communicated the adverse part with all the entries made by the reporting/reviewing/accepting

authority as per the government order dated 18-12-2003 and only communicated information regarding adverse entry therefore, the said adverse entry should be deemed to be considered as uncommunicated adverse entry. As per the adverse part of all the entries made by the reporting/reviewing/accepting authority as submitted by the respondent alongwith the counter affidavit in earlier claim petition, it is crystal clear that at the level of Reporting Authority, he was given entry as 'Outstanding' for the years 2009-10 & 2013-14. But the Reviewing Authority, who was biased to the petitioner (on account of the fact that he forced the petitioner for disbursement of family pension to Smt. Bishnuli Devi, who got family pension sanctioned by way of manipulating documents, instead of disbursing family pension he sent a complaint to record office of Army for investigation regarding genuineness family pension) gave adverse remark to the petitioner and the Accepting Authority mentioned that he agreed with the entry made by Reporting Authority despite that entry given as 'Unsatisfactory' is unreasonable.

2.9 For the year 2014-15, all the entries with adverse part given by the reporting/reviewing/accepting authority should have been given to the petitioner at the time of communicating the ACR but the same was never communicated to the petitioner.

2.10 As per Para 9(2) of the government order dated 18-12-2003, in respect of the ACR of the non-gazetted employee, the same shall be given in 2 level by Reporting/Accepting Authority but in utter violation of the said clause, the petitioner, who was non-gazetted employee has been given ACR in 3 levels. Since in the case of the petitioner, there is no provision for appointing reviewing authority, therefore, any entry given by reviewing officer is invalid and the accepting authority without his remarks accepted the entry given by reporting authority therefore the entry given by reporting authority become final. Furthermore, on account of not providing the details of the adverse part to the petitioner, he could not make representation against such adverse entry therefore as per the government order

dated 18-12-2003, the entry made at the level of Reporting Authority may be made applicable in the case of the petitioner. The District Magistrate, Bageshwar vide order dated 23-9-2023 denied to consider the representation submitted by the petitioner in the light of government order dated 28-4-2023, while the said government order dated 28-4-2023 is not applicable in the matter of the petitioner.

2.11 Being aggrieved by the aforesaid order passed by the District Magistrate, Bageshwar dated 23-9-2023, the petitioner made a representation on 11-10-2023 before the respondent no. 1 i.e. Commissioner, Kumaun Region Nainital stating therein that at the time when the impugned adverse entry was given to the petitioner, Sub Treasury Officer happened to be reporting officer and District Magistrate is Accepting Authority for the ACR of Assistant Accountant working in the Sub Treasury and the Reporting Authority gave entry in ACR of the petitioner for the year 2009-10 and 2013-14 as 'Outstanding' and further the Reporting Authority also given entry in his ACR for the period 2014-15 as 'satisfactory' but at the level of Reviewing Authority adverse remark has been given and he has been only intimated regarding adverse entry but at what level and what kind of adverse entry has been given to him the same has not been communicated to him and as per the government order the real entry is that what have been given by the reporting officer i.e. Sub Treasury and presently came to know without any cogent ground his entry has been changed by the authority who is not authorized for the same. Therefore, as per the government order dated 18-12-2003 that the entry made at the level of reporting authority may be made applicable in the case of the petitioner.

2.12 The respondent no. 2 vide its order dated 30-1-2024 instead of considering the representation of the petitioner rejected the same treating as time barred. While rejecting the representation, both the authorities i.e. the District Magistrate Bageshwar as well as Commissioner, Kumaun Region, Nainital did not consider the mandatory provision as provided under Para 17 of the government

order dated 18-12-2003, if any adverse thing mentioned in the annual report of the employee at the time of communicating the adverse part all the entries made by the reporting/reviewing/accepting authority shall also be intimated to the concerned employee but in the case of the petitioner said provision has been totally ignored.

2.13 Since at the time of communicating the adverse part all the entries made by the reporting / reviewing / accepting authority have not been intimated to the petitioner, the only information was given regarding adverse entry therefore the act of the respondent is in violation of Principle of natural justice.

2.14 The petitioner is non-gazetted employee and as per Law, the ACR of the non-gazetted employee has to be written at two levels i.e. Reporting/Accepting authority but ignoring the Law, the respondent showed his ACR in 3 levels i.e. Reporting, Reviewing and Accepting Authority as such the procedure adopted in respect of ACR in question is illegal and arbitrary in nature.

3. C.A./W.S. has been filed on behalf of the respondents mainly stating therein that-

3.1 याची ने यह याचिका प्रतिवादी संख्या 01 द्वारा पारित आदेश दिनांक 30.01.2024 से व्यथित होकर प्रस्तुत किया है, वास्तविकता यह है कि याची के विरुद्ध प्रतिवादी संख्या 2 द्वारा सम्यक जांचोपरान्त वर्ष 2009–10, 2013–14 एवं 2014–15 में प्रतिकूल प्रविष्टि पारित की गयी है, आयुक्त, कुमाँऊ मण्डल नैनीताल द्वारा पारित आदेश एवं जिलाधिकारी बागेश्वर द्वारा जारी किए गए आदेश याची द्वारा प्रश्नगत याचिका में चुनौती दी है।

3.2 याची की नियुक्ति दिनांक 25.02.1999 को जनपद बागेश्वर के कोषागार में सहायक लेखाकार के पद पर हुयी थी, सहायक लेखाकार/लेखाकार का पद जनपद स्तरीय होने के फलस्वरूप वार्षिक गोपनीय प्रविष्टि प्रदान किये जाने हेतु स्वीकृता अधिकारी जिलाधिकारी हैं, याची को वर्ष 2009–10 व 2013–14 में उपकोषागार कपकोट तथा वर्ष 2014–15 में उपकोषागार गरुड में तैनाती के दौरान कार्य एवं व्यवहार पद के अनुरूप न पाए जाने के कारण स्वीकृता अधिकारी (जिलाधिकारी) स्तर से उक्त अवधियों हेतु प्रतिकूल प्रविष्टियां प्रदान की गयी है, स्वीकृता स्तर से प्रदत्त अंकना ही अन्तिम मान्य होती हैं। साथ ही यह भी अवगत कराना है, कि स्वीकृता अधिकारी किसी कार्मिक को चरित्र प्रविष्टि देने हेतु प्रतिवेदक स्तर का अनुपालन करने के लिए बाध्य नहीं है, किसी भी कार्मिक की

सत्यनिष्ठा को प्रमाणित किया जाना व चरित्र अंकना में अभियुक्ति किया जाना अलग-अलग तथ्य हैं, सम्भव है कि कार्मिक की अपने पद के सापेक्ष सत्यनिष्ठा प्रतिवेदक के समक्ष बनी हो, जैसा कि प्रतिवेदक के मन्तव्य से स्पष्ट है जिस पर स्वीकृता अधिकारी द्वारा सहमति व्यक्त की गयी है।

3.3 याची को उपकोषाधिकारी कपकोट की आख्या एंव वरिष्ठ कोषाधिकारी बागेश्वर की आख्या के आधार पर तत्कालीन जिलाधिकारी बागेश्वर ने प्रतिकूल प्रविष्टि को अभिप्रमाणित किया है, जिसे याची ने अपनी याचिका में संलग्नक-3 के रूप में प्रस्तुत किया है, उपरोक्त प्रतिकूल प्रविष्टियों की जानकारी याची को यथासमय प्राप्त हुयी हैं, वर्ष 2009-10 में प्राप्त प्रतिकूल प्रविष्टि की सूचना पत्रांक 167/कोषा०/ बागे० दिनांक 25-05-2010, वर्ष 2013-14 में प्राप्त प्रतिकूल प्रविष्टि की सूचना पत्रांक 349/ कोषा०/ बागे० दिनांक 12-08-2014 तथा वर्ष 2014-15 में प्राप्त प्रतिकूल प्रविष्टि की सूचना पत्रांक 339/कोषा०/बागे० दिनांक 03-08-2015 के माध्यम से याची को शासनादेश संख्या 1712/कार्मिक-2/2003 दिनांक 18 दिसम्बर, 2003 में वर्णित प्राविधानों के तहत प्रतिकूल प्रविष्टियों से ससमय संसूचित कर दिया गया था। याची का दावा मियाद बाहर है, याची के उक्त प्रस्तर का खण्डन उत्तराखण्ड शासन कार्मिक अनुभाग-2 के आदेश संख्या 155/XXX(2)/2015-30(39) 2014 देहरादून, दिनांक 28 अप्रैल, 2015 के प्रस्तर 4 में उल्लेखित बिन्दु संख्या 2 व 3:- सरकारी कर्मचारी, उपनियम (1) के अधीन प्रतिकूल, अच्छा/सन्तोषजनक, उत्तम, अतिउत्तम रिपोर्ट की संसूचना के दिनांक से 45 दिन की अवधि के भीतर, इस प्रकार संसूचित रिपोर्ट के विरुद्ध प्रत्यावेदन लिखित में सीधे और उचित माध्यम से स्वीकर्ता प्राधिकारी से एक पंक्ति ऊपर के प्राधिकारी को सक्षम प्राधिकारी कहा गया है, और यदि सक्षम प्राधिकारी न हो तो स्वीकर्ता प्राधिकारी को ही कर सकता है।

परन्तु यदि यथास्थिति, सक्षम प्राधिकारी या स्वीकर्ता प्राधिकारी का यह समाधान हो जाये कि सरकारी सेवक के पास उक्त अवधि के भीतर प्रत्यावेदन प्रस्तुत न कर सकने के पर्याप्त कारण हैं तो ऐसे प्रत्यावेदन की प्रस्तुति के लिये 45 दिन की अग्रेतर अवधि की अनुमति दे सकता है। याची द्वारा प्रतिकूल प्रविष्टि की सूचना प्राप्ति की तिथि से 45 दिनों के भीतर समक्ष प्राधिकारी या स्वीकर्ता प्राधिकारी को संसूचित रिपोर्ट के विरुद्ध प्रत्यावेदन लिखित में सीधे और उचित माध्यम से स्वीकृता प्राधिकारी को उपलब्ध नहीं कराया गया।

3.4 जिस समय याची को प्रतिकूल प्रविष्टि प्रदान की गयी उस समय याची की तैनाती उपकोषागार कपकोट, उपकोषगार गरुड़ में रही है, इसलिए उचित माध्यम से प्राप्त टिप्पणियों के आधार पर समीक्षक अधिकारी के मन्तव्य को स्वीकर्ता अधिकारी ने सहमति दी है, इससे शासनादेश संख्या 1712/कार्मिक-2/2003 का अतिक्रमण नहीं हुआ है। मा० न्यायाधिकरण से प्रार्थना है, कि याचिकाकर्ता के द्वारा योजित की गयी वर्तमान याचिका असत्य एवं भ्रामक तथ्यों पर आधारित है, जिस कारण उक्त याचिका खारिज होने योग्य है। अतः याची की याचिका बलहीन होने के कारण निरस्त हाने योग्य है।

4. R.A. has also been filed on behalf of the petitioner denying the contentions made in the C.A/W.S. and has reiterated the averments made in the claim petition.

5. We have heard learned Counsel for the parties and perused the record.

6. Learned Counsel for the petitioner argued that the entries in the ACR for the year 2009-10, 2013-14 and 2014-15 were reported / reviewed and accepted by the Sub Treasury Officer, Senior Treasury Officer and the Distt Magistrate. The adverse entries in the ACR for the above years were not communicated to the petitioner as per Para-17 of the letter dated 18.12.2003. Only the adverse part of the entries in the ACRs of these years were communicated the entries of the reporting, reviewing and accepting authorities in respect of the corresponding years were not communicated to the petitioner. The representation of the petitioner has not been dealt as per the guidelines contained in the letter dated 18.12.2003.

6.1 Learned Counsel for the petitioner further argued that the petitioner is a non- gazetted employee and his ACR as per the Para 9(2) of the letter dated 18.12.2003 is to be written at two levels, Reporting Authority and the Accepting Authority, whereas, the ACRs for the aforesaid periods have been written at three levels which is against the clause 9(2) of guidelines mentioned in the aforesaid letter. The remarks of the reviewing officer should not be considered, as these are the basis of the remarks of the accepting officer. So, the remarks of the Reporting Officer should only be considered. Hence, in view of the above the guidelines, the adverse entry given to the petitioner should not be read against the petitioner.

7. Learned A.P.O. argued that the ACR of the petitioner is non-gazetted Distt. level employee, his ACR is accepted by the Distt Magistrate. The ACR of the petitioner has been written at three levels but the comment of the Accepting officer is final. The argument of the petitioner that the remark of the reporting officer should only be



considered as the ACR of the petitioner should have been written at two levels and the Distt magistrate although mentioned that he agrees with the reporting officer but considered the remarks of the reviewing officer is not acceptable as the accepting officer has written ACR based on the facts. The petitioner was informed about the adverse entries as per The Uttaranchal Government Servants (Disposal of Representation Against Adverse Annual Confidential Reports and Allied Matters) Rules, 2002 and the letter dated 18.12.2003 of the Principal Secretary, Department of Personnel.

8. Based on the arguments of Learned Counsel for the petitioner, the Learned APO and the records presented, we find that the ACRs of the petitioner for the year 2009-10, 2013-14 and 2014-15 have been reported, reviewed and accepted at three levels. Whereas, Para 9(2) of the letter dated 18.12.2003 of the Principal Secretary, Personnel lays down that the ACRs of non-gazetted employees will be written at two levels. In case of the officers the ACRs will be written at three levels. The reporting authority will be immediate senior of the officer reported upon, reviewing authority will be immediate senior to the reporting authority and the Accepting Authority immediate senior to the Reviewing Authority. All the departments are to decide the reporting, Reviewing and the Accepting officers in respect of their employees and the officers. The relevant para no. 9(3) of the letter dated 18.12.2003 reads as under:

“प्रविष्टियां देने के लिए सक्षम अधिकारी 3. प्रत्येक अधिकारी की वार्षिक गोपनीय प्रविष्टि ठीक उसके ऊपर के प्राधिकारी (प्रतिवेदक प्रविष्टियां देने के प्राधिकारी) द्वारा लिखी जायेगी। उस प्रविष्टि का पुनरीक्षण प्रविष्टि लिखने वाले अधिकारी के ठीक ऊपर के अधिकारी द्वारा तथा उसका स्वीकरण पुनरीक्षण करने वाले अधिकारी के ठीक ऊपर के अधिकारी द्वारा किया जायेगा। समस्त प्रशासनिक विभाग अपने अधीनस्थ सेवाओं के कार्यरत कर्मचारियों तथा अधिकारियों के सम्बन्ध में आवश्यकतानुसार प्रतिवेदक / समीक्षक / स्वीकर्ता प्राधिकारी नियत कर लें।”

8.1 This Tribunal during the course of hearing directed learned A.P.O. to produce the order of the department deciding Reporting, Reviewing Authority and the Accepting Authority in case of the petitioner. But, he could not produce such order. Learned A.P.O. argued that the petitioner is a Distt. level employee and Distt. Magistrate is the Accepting Authority in case of the petitioner. This is also mentioned in the Written Statement filed by the respondent, but no such order of the District Magistrate or the Government has been submitted. In such situation the aforesaid letter dated 18.12.2003 guides us to consider Sub-treasury officer as Reporting Officer and Senior Treasury officer as the Reviewing /Accepting officer in case of the petitioner. As per the records, ACR of the Year 2009-10, 2013-14 & 2014-15 accepted by the District Magistrate, Bageswer, which can be overlooked and the Remarks of the Reporting and Reviewing officer will remain as such. Para 17 of the aforesaid letter deals with communication of the adverse portion of entry to the employee and it says that while communicating the portion of adverse entry the entries given by the Reporting/Reviewing and the Accepting Authorities shall be communicated.

8.2 The respondents vide letters dated 25.05.2010, 12.08.2014 and 03.08.2015 communicated the adverse portion of the entries for the years 2009-2010, 2013-14 and 2014-15 but the entries by reporting/ reviewing/Accepting Officers were not communicated to the petitioner. The petitioner came to know about these entries only when the C.A./W.S. was filed by the respondents in the earlier claim petition filed by the petitioner. This is certainly an irregularity committed by the respondents while communicating adverse entries to the petitioner. In such situation as per the guidelines in Para 17 these adverse entries shall be considered as not communicated and shall be overlooked at the time of evaluation. The relevant portion of the Para 17 is as under:

“प्रतिकूल प्रविष्टि संसूचित करना 17. यदि वार्षिक प्रविष्टि में किसी प्रतिकूल बात का उल्लेख किया गया है तो प्रतिकूल अंश संसूचित करते समय प्रतिवेदक / समीक्षक / स्वीकर्ता तीनों प्राधिकारियों की प्रविष्टियों से अवगत कराया जायेगा। किसी प्रविष्टि को अथवा उसके

किसी अंश को प्रतिकूल मानकर संसूचित करना है, इसका निर्णय सक्षम अधिकारी अथवा उसके द्वारा नामांकित अधिकारी करेगा। प्रतिकूल अंश के होने पर समस्त प्रविष्टि संसूचित करनी होती है। यदि किसी अंश को प्रतिकूल न मानकर संसूचित नहीं किया गया है तो वह प्रविष्टि मूल्यांकन के समय नजरंदाज की जा सकती है।”

8.3 In view of the above, the impugned orders dated 30.01.2024 of the Commissioner, Kumaon Division and letter dated 23.09.2023 of the Distt. Magistrate, Bageswer are set aside, as the representation has not been dealt as per the guidelines mentioned in the letter dated 18.12.2003. The entries for the year 2009-2010, 2013-14 and 2014-15 were not communicated as per the Para 17 of the letter dated 18.12.2003 and shall be considered as non-communicated. These adverse entries shall not be considered against the petitioner in evaluation. In such situation, relief no. (ii) sought by the petitioner becomes infructuous. The claim petition is liable to be allowed.

### **ORDER**

The claim petition is hereby allowed. The impugned order dated 30.01.2024 and the letter dated 23.09.2023 are set aside. The respondents are directed to consider the adverse entries for the year 2009-10, 2013-14 and 2014-15 as non-communicated, which shall not be considered against the petitioner in evaluation. No order as to costs.

**RAJENDRA SINGH**  
VICE CHAIRMAN (J)

**A.S.RAWAT**  
VICE CHAIRMAN (A)

*DATED: AUGUST 22, 2025*  
*DEHRADUN*  
*KNP*