

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

Present: Hon'ble Mr. Rajendra Singh,

.....Vice Chairman (J)

Hon'ble Mr. A.S.Rawat

.....Vice Chairman (A)

CLAIM PETITION NO. 31/NB/DB/2021

Con. 627, Hemraj Singh Mehra (Male), aged about 34 years, S/o Sri Vikram Singh Mehra, presently posted as Constable, Police Station Transit Camp, Rudrapur, District Udham Singh Nagar.

.....Petitioner

Vs

1. State of Uttarakhand through Principal Secretary, Department of Home, Govt. of Uttarakhand, Dehradun.
2. Director General of Police, Uttarakhand Police Headquarters, Dehradun.
3. Deputy Inspector General of Police, Kumaon Range, Nainital.
4. Senior Superintendent of Police, Udham Singh Nagar.

.....Respondents

Present: Sri Vinay Kumar, Advocate for the petitioner
Sri Kishore Kumar, APO for the Respondents

JUDGMENT

DATED: NOVEMBER 03, 2025

Per: Sri A.S.Rawat, Vice Chairman(A)

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

- (i) *To quash the impugned Punishment Order No. P.F.-05/2016 dated 17th June 2019 passed by the Senior Superintendent of Police, Udham Singh Nagar, whereby the petitioner has been reverted to the minimum of pay scale of Constable for one year.*
- (ii) *To quash the impugned Appellate Order dated 24th October 2019 passed by the Deputy Inspector General of Police, Kumaon Range, Nainital, whereby the Departmental Appeal preferred by the Petitioner against the Punishment*

Order dated 17th June 2019, has been rejected by affirming the punishment order passed by the Disciplinary Authority.

(iii) To award the cost of the petition or to pass such order or direction which this Court may deem fit and proper in the circumstances of the case.

2. The brief facts, as per the claim petition are as under:

2.1 The petitioner submitted his application for participating in the Ranker Sub Inspector Examination-2014. He appeared in the Written Examination and qualified the Written Examination also. The petitioner also qualified in the Physical Endurance Test conducted by the 40th Battalion Haridwar on 28.09.2015 and his name figured at sl. No. 3 in the list of successful candidates.

2.2 Before the petitioner could be sent for training for appointment as Ranker Sub Inspector (Civil Police), anonymous complaint was made in the name of All Employees of Uttarakhand, to the Inspector General of Police, Dehradun regarding irregularities in Physical Endurance Test (Running) in the Sub Inspector Rankers Examination 2014-15 stating that the petitioner and one Jitendra Soradi had participated in the Physical Test in Group No. 6 and they failed to qualify the test, but in spite thereof they have been placed in the list of successful candidates.

2.3 An enquiry was directed to be conducted by the Deputy Commandant, 40th Battalion, PAC, Haridwar. The Deputy Commandant issued communication on 18.11.2015 to the SSP, Udham Singh Nagar requiring him to direct the petitioner and another constable whose name was mentioned in the anonymous letter to remain present before the Deputy Commandant for enquiry. The petitioner was relieved on 23.11.2015 to remain present before the Deputy Commandant/ Enquiry Officer.

2.4 The Deputy Commandant sought the Company Commander, B Company, 40th Battalion PAC, Haridwar to give his report regarding the allegation made in the anonymous letter inasmuch as he was Assistant Incharge at starting/finishing point. On the basis of the report submitted by the Company Commander, the Commandant

40th Battalion PAC submitted his report to the Inspector General of Police, PAC/Chairman of the Selection Committee on 07.12.2015. It was recommended that the name of the petitioner be removed from the list of successful candidates and he be declared as disqualified in the Physical Test.

2.5 On 04.07.2016, the Presiding Officer/Additional Superintendent of Police, Kashipur, District Udham Singh Nagar issued a charge-sheet to the petitioner on the allegation that in the year 2015, when the petitioner was posted at Police Station Transit Camp, District Udham Singh Nagar, the petitioner participated in the Physical Test (running) for Sub Inspector Ranker Examination 2014-15 held at 40th Battalion, PAC, Haridwar and in spite of not reaching the finishing point got himself included in the Group of successful candidates, the said conduct of the petitioner indicates his indiscipline, arrogance and arbitrariness. It was stated that on the said charges disciplinary proceedings is initiated under Rule 14(1) of the Punishment and Appeal Rules of 1991. The petitioner was required to submit written submission in his defence against the charge-sheet within a period of 07 days from the date of receipt of the charge-sheet.

2.6 On 25.07.2016, the petitioner submitted his reply to the Enquiry Officer against the charge-sheet. The petitioner relied on the Govt. Order which prohibits entertainment of anonymous complaint unless the same is supported by an affidavit. He stated that the witnesses whose statements were recorded by the Preliminary Enquiry Officer have categorically stated in their statements that no irregularity was committed in conducting the Physical Test (running). The witnesses/ employees who were assigned the duty of keeping the disqualified candidates have specifically stated that no disqualified candidate was allowed to leave the fenced area without signing the list of disqualified candidates. The officials who were assigned the duty at finishing point have also stated that no unsuccessful candidate was allowed to cross into the ATC Ground.

2.7 On 30.11.2018, the petitioner submitted a representation to SSP, Udham Singh Nagar, pointing out that the enquiry is being held against him only on the ground that he could not be seen in the video recording conducted at the time of Physical Test (running) and further it is the sole ground for proceeding against the petitioner, then the video recording of Group No. 3 shows that 146 candidates had qualified the Physical Test (running), whereas in the recording only 139 candidates can be seen. It was pointed out that in respect of Group No. 4, the list shows that 164 candidates qualified the race, but in the video recording only 163 candidates can be seen. Group No.7 contained the list of 224 candidates who successfully qualified the race, but the video recording shows that only 220 candidates passed the test.

2.8 During the disciplinary proceedings, the statements of witnesses were recorded in support of the charge leveled against the petitioner, the statements of Samarveer Singh Rawat, Reserve Inspector, Reserve Police Line Rudrapur, statement of Smt. Sarita Dobhal, Superintendent of Police, District Dehradun, statement of Constable Sandeep Sharma, statements of Constable Ram Pal Singh (Video Recorder) were recorded. After completion of the evidence of the departmental witnesses, the petitioner was required to submit whether he intends to record the statement of any defence witnesses or not.

2.9 During the disciplinary proceedings, Sri Samarveer Singh Rawat in his statement stated that on 28th September 2015, when the physical test (running) for the Ranker Sub Inspector Examination was held, he was assigned the duty at starting/finishing point and that on the complaint received against the selection of petitioner, he went through the video recording of the concerned Group and found that the petitioner could not be seen in the video at finishing point and thus, it appears that the petitioner fraudulently included himself in the Group of successful candidates. During cross examination, Sri Samarveer Singh Rawat admitted the fact that the Token for

successful candidate could not be obtained by fraud. He admitted that he does not have any knowledge as to how the petitioner obtained the Token for successful candidates. He also admitted the fact that the names of the qualified and disqualified candidates were being indicated by himself. In reply to a question Sri Samarveer Singh Rawat admitted that he does not have knowledge as to who gave the Token to the petitioner, even when the petitioner did not complete the race. He also stated that he did not check the recording of other groups to find out whether other similarly placed candidates who failed to qualify the race were also included in the list of successful candidates. The statement of Sarita Dobhal was recorded who had only conducted the preliminary enquiry. Smt. Sarita Dobhal admitted the fact that statements of Samarveer Singh Rawat was not recorded and only the report submitted by him was made part of the enquiry report. A specific question was put to the witness Sarita Dobhal as to whether a candidate can be declared disqualified merely on the ground that he could not be seen in the video recording to which it was replied that videography is an important evidence. It was not stated as to how the statement of witnesses who were present on the spot could be overlooked. She admitted the fact that the Token could not be obtained by fraud that too after 30 minutes of completion of the race. She admitted that no action was taken against any of the officer/ employee involved in conducting the race.

2.10 After completion of the enquiry, the Presiding Officer/ Additional Superintendent of Police, Kashipur, Udham Singh Nagar submitted the report on 19.02.2019 holding that the petitioner could not produce any evidence in his defence and that on the basis of the evidence brought on record it is concluded that the charges leveled against the petitioner stand proved. The enquiry officer proposed the punishment for the proved charges that the petitioner be placed in the minimum of the pay scale of the post of Constable for a period of one year. The petitioner submitted his written reply/defence to the charges, stating that only on the basis of the video recording, the

petitioner has been declared disqualified ignoring the statements of the witnesses.

2.11 After submission of the enquiry report by the Enquiry Officer on 19.02.2019, the Appointing Authority issued a show cause notice to the petitioner on 12.03.2019 requiring the petitioner to show cause as to why punishment proposed in the enquiry report be not awarded to the petitioner inasmuch as the Disciplinary Authority is satisfied with the conclusion arrived at by the Enquiry Officer. On 26.03.2019 the petitioner submitted his reply to the show cause notice dated 12.03.2019 pointing out that during inquiry proceedings, no evidence/fact has come in the evidence of the prosecution, which would establish that the undersigned was guilty, is contrary to the evidence on record, inasmuch as, the officers who have been produced before the Inquiry Officer to support the charges, have clearly admitted that nobody can obtain the Token by fraud or misrepresentation. This admission was itself sufficient to hold that the charge levelled against the undersigned is not based on record.

2.12 The Disciplinary Authority passed the impugned punishment order dated 17.06.2019, whereby the Disciplinary Authority rejected the reply of the petitioner against the show cause notice and imposed the major punishment of reversion of the petitioner for a period of one year in the minimum pay scale to the post of Constable. Against the punishment order dated 17.06.2019, the petitioner preferred the Departmental Appeal before the Appellate Authority. In the Appeal it was pointed out that the petitioner in his reply to the show cause notice has specifically stated that the Departmental Officials/Staff who were assigned the duties for properly conducting the physical test has not been examined by the Enquiry Officer, though the said officials/ Staff in the preliminary enquiry has admitted that no irregularity was committed, but the Disciplinary Authority has not given any finding on such specific pleading.

2.13 The Appellate Authority dismissed the Departmental Appeal of the petitioner and confirmed the punishment order dated

17.06.2019. The Disciplinary Proceedings were initiated against the petitioner for imposition of major penalty under the Punishment and Appeal Rules, 1991. Perusal of the Charge-sheet dated 04.07.2016 shows that the same was issued by the Presiding Officer/ Additional Superintendent of Police, Kashipur, Udham Singh Nagar. The perusal of the charge-sheet shows that the charges against the petitioner has been leveled by the Enquiry Officer and in fact the petitioner was required to give reply to the charge-sheet to the Enquiry Officer.

2.14 The issue regarding whether the Enquiry Officer can issue a Charge-sheet and call for the reply from the delinquent employee was considered by the Hon'ble High Court of Uttarakhand in the case of **M.S. Dasauni Vs. State of Uttarakhand & Ors., reported in 2016 (1) U.D. 321**, wherein the Hon'ble High Court quashed the Charge-sheet issued by the Enquiry Officer on the ground that the Enquiry Officer cannot prepare a Charge-sheet. The case of M.S. Dasauni pertained to a Police Personnel. The Hon'ble High Court in the case of M.S. Dasauni further directed the Director General of Police, Uttarakhand for compliance of the order. While relying on the observations of the Hon'ble High Court regarding the competence of Enquiry Officer to issue a Charge-sheet in the case of M.S. Dasauni, the learned Tribunal allowed the Claim Petition No. 34/DB/2017, "Arjun Singh Vs. State & Ors. vide judgment and order dated 11.07.2018, and quashed the punishment orders solely on the ground that the Charge-sheet was issued by the Enquiry Officer. The learned Tribunal further directed the Appointing Authority to give a charge-sheet.

2.15 In view of the judgment of the Hon'ble High Court of Uttarakhand **in the case of M.S. Dasauni** as well as the judgment of the learned Public Services Tribunal in the case of **Arjun Singh**, the present Disciplinary Proceedings initiated against the petitioner has been vitiated due to issuance of the Charge-sheet by the Enquiry Officer, consequently the impugned punishment order passed

against the petitioner also becomes bad in law. The judgment in the case of M.S. Dasauni was passed by the Hon'ble High Court of Uttarakhand on 23.11.2015 holding that the charge-sheet cannot be issued by the Enquiry Officer and admittedly, the petitioner was issued the Charge-sheet on 4th July 2016 in contravention of the settled law as propounded by the Hon'ble High Court and thus, the entire proceedings against the petitioner is not sustainable in view of the law of the land existed on the date of issuance of charge-sheet. The impugned punishment order and the appellate order are not sustainable for the reason that the Police Personnel who were assigned the duty of giving Token, recording the name of the qualified/disqualified candidates and the Police personnel who were assigned the duty to keep disqualified candidates separated were not examined. The impugned punishment order and the departmental appellate order are not sustainable for the reason that the candidature of the petitioner cannot be declared disqualified only on the ground that the petitioner is not visible in the video recording-

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

3.1 The respondent authorities after following the due procedure as prescribed in the Uttarakhand (U.P. Subordinate Class Police Officers/Employees [Punishment & Appeal] Rules, 1991) adoptions and modification orders 2002 passed the punishment order and the appellate authority after going through the record and evidence rejected the appeal of the petitioner. Thus the punishment orders are just and proper and no interference of this Hon'ble Court is required in the matter and the claim petition is liable to be dismissed.

3.2 The petitioner was found guilty for including himself amongst successful candidates despite of the fact that he has not reached the finishing point within the time but by playing fraud obtained the token. In this regard some complaints were received by departmental authorities and on the said complaint answering department directed for enquiry and pursuant to the directions the deputy Commandant

40th Battalion PAC Haridwar vide its communication dated 18-11-2015 requested the SSP, Udham Singh Nagar to direct the petitioner and other constables whose names were mentioned in the complaints to remain present before the Deputy Commandant for enquiry. Thereafter the SSP Udham Singh Nagar relieved the petitioner to join the enquiry on 23-11-2015 and thereafter the Company Commander 40th Battalion PAC Haridwar submitted his report to Inspector General of Police PAC/ Chairman of the Selection Committee on 07-12-2015 and recommended that the name of the petitioner be removed from the list of successful candidates and he be declared disqualified for physical test.

3.3 The Deputy Commandant 40th Battalion PAC who was the enquiry officer recorded the statements of the concerned personnel of the selection process and after recording the statements and other relevant evidence found the petitioner guilty for playing fraud with the selection committee. Pursuant to the enquiry report dated 30-12-2015 the answering respondent no.4 ordered for department enquiry under Uttarakhand (U.P. Subordinate Class Police Officers/ Employees [Punishment & Appeal] Rules, 1991) adoptions and modification orders 2002 and Uttarakhand Police Act 2007 and appointed the A.S.P Kashipur District Udham Singh Nagar as enquiry officer and thereafter the enquiry officer issued charge sheet to the petitioner on 04-07-2016 and directed the petitioner to submit his reply to the charges within stipulated time. Thereafter the petitioner replied to the charge sheet vide his reply dated 25-07-2016. That thereafter the enquiry officer started the enquiry and recorded the statements of the concerned personnels and collected the evidence and also heard the petitioner, and after completion of the enquiry submitted his report to the disciplinary authority on 19-02-2019 and held that the petitioner has not produced any evidence in his defence and on the basis of evidence brought on record, the charges levelled against the petitioner are proved.

3.4 After receiving the enquiry report the disciplinary authority issued show cause notice alongwith copy of the enquiry report to the petitioner on 12-03-2019 under Rule14 (1) of Uttarakhand (U.P. Subordinate Class Police Officers/Employees [Punishment & Appeal] Rules, 1991) adoptions and modification orders 2002 and section 23(1) of Uttarakhand Police Act 2007 and directed the petitioner to submit the reply. The petitioner thereafter submitted his reply on 26-03-2019.

3.5 The Disciplinary Authority after going through the reply of the petitioner and the enquiry report and by giving his detail and specific findings passed the punishment order on 17-06-2019. Thereafter the petitioner filed the statutory appeal under section 26 of the Uttarakhand Police Act 2007 before the respondent no.3 and the appellate authority vide its detailed and reasoned order dated 24-10-2019 rejected the appeal by recording his findings. Thus the answering respondents while awarding the punishments to the petitioner followed the rules and procedure as prescribed Uttarakhand (U.P. Subordinate Class Police Officers/Employees [Punishment & Appeal] Rules, 1991) adoptions and modification orders 2002. The respondent no.4 by giving opportunity of hearing to the petitioner as per the Rule14 (1) of the said Rules of 1991 and section 23(1) of Uttarakhand Police Act 2007 and after going through the reply and enquiry report passed the punishment order and the appellate authority also after perusing the record rejected the appeal of the petitioner by a reasoned and explanatory order. Thus, there is no merit in the claim petition and the claim petition is liable to be dismissed.

4. We have heard the Learned Counsel for the Petitioner and the Learned APO and perused the record.

5. Learned counsel for the petitioner has argued that the Disciplinary Authority disqualified the petitioners solely on the basis of the fact that he could not be found in the video recording while running and he obtained the token of having qualified the Physical

Test (running) fraudulently. Further, learned Counsel for the petitioner has argued that the charge sheet has been issued by the Inquiry Officer and he recommended the punishment also. Learned Counsel for the petitioner has relied on the judgement of the Hon'ble High Court in the matter of M.S. Dasauni (*supra*), and also the judgment of this Tribunal passed in claim petition No. 34/DB/2017, "Arjun Singh Vs. State & Ors. in which this Tribunal has relied on the judgement of the Hon'ble High Court to decide the case. Hence, the impugned Orders of the Disciplinary Authority and the Appellate Authority are liable to be quashed and Claim petition is liable to be allowed.

6. Learned A.P.O. has argued that the petitioner was not seen in the video recording of the Physical Test (Running) as a proof that he did not complete the test. He obtained the token of completion of the test fraudulently. The petitioner did not give sufficient proof in his defence due to which he was given punishment by the disciplinary authority and the order of the disciplinary authority was upheld by the Appellate Authority. In view of the above the Claim petition is liable to be dismissed.

7. Based on the argument of the Learned Counsel for the parties and the documents placed before the tribunal, we find that the petitioner has been issued charge sheet by the Inquiry officer (Additional Superintendent of Police) as the petitioner did not complete the Physical Test (5 km Race) and included himself in the group of the qualified candidates fraudulently. This act of enquiry officer by signing the Charge sheet is in contravention of the settled law as propounded by the Hon'ble High Court of Uttarakhand in the matter of ***MS Dasauni vs. State of Uttarakhand & others, 2016 (1) UD, 321***, a decision which pertains to a Police official, Hon'ble High Court of Uttarakhand held as under:-

"13..... they have not proposed the punishment. The Committee has simply given a finding that the action on the part of the petitioner is an act of serious misconduct, and therefore, proceedings should be drawn against him under Rules 4(1)(a) and 14(1) of the Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991. Under the

provision of sub rule (1) (a) of Rule 4 and Rule 14(1) of the Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991 proceedings have drawn against Police Officer, which entails major penalty and this has to be read with appendix I of the said Rules. Rule 4(1)(a) of Uttar Pradesh Police Officers of The Subordinate Ranks (Punishment and Appeal) Rules, 1991 reads as under:-

“4. Punishment (1) The following punishments may, for good and sufficient reasons and as hereinafter provided, be imposed upon a Police Officer, namely-

(a) Major Penalties –

(i) Dismissal from service.

(ii) Removal from service.

(iii) Reduction in rank including reduction to a lower-scale or to a lower stage in a time scale.

14. Rule 14(1) of Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991 reads as under:-

“14. Procedure for conducting departmental proceedings (1) Subject to the provisions contained in these Rules, the departmental proceedings in the cases referred to in sub-rule (1) of Rule 5 against the Police Officers may be conducted in accordance with the procedure laid down in Appendix I.”

15. Appendix-I of the Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991 reads as under:-

“Procedure relating to the conduct of departmental proceedings against Police officer: Upon Institution of a formal enquiry such Police Officer against whom the inquiry has been instituted shall be informed in writing of the grounds on which was proposed to take action and shall be afforded an adequate opportunity of defending himself. The grounds on which it is proposed to take action shall be used in the form of a definite charge or charges as in Form 1 appended to these Rules which shall be communicated to the charged Police Officer and which shall be so clear and precise as to give sufficient indication to the charged Police Officer of the facts and circumstances against him. He shall be required, within a reasonable time, to put in, in a written statement of his defence and to state whether he desires to be heard in person. If he so desires, or if the Inquiry Officer so directs an oral enquiry shall be held in respect of such of the allegation as are not admitted. At that enquiry such oral evidence will be recorded as the Inquiry Officer considers necessary. The charged Police Officer shall be entitled to cross-examine the witnesses, to give evidence in person and to have such witnesses called as he may wish: provided that the Inquiry Officer may, for sufficient reasons to be recorded in writing, refuse to call a witness. The proceedings shall contain a sufficient record of the evidence and statement of the finding and the ground thereof. The Inquiry Officer may also separately from these proceedings make his own recommendation regarding the punishment to be imposed on the charged Police Officer.”

“17. The second order dated 04.01.2010 on which action actually has been taken by the appointing authority is an order which has not been referred by the petitioner in the writ petition. This order has been placed before this Court by the State in its counter affidavit.

18.From the perusal of annexure No. 2 which is impugned order dated 04.01.2010, it seems to be passed by the enquiry officer. This is the charge sheet and an enquiry officer is not supposed to prepare a charge-sheet, as this is the job of the appointing authority. Enquiry officer has to conduct an enquiry in an impartial manner and therefore, framing of the charge-sheet is not one of the duties of the enquiry officer. Therefore, as far as the order dated 04.01.2010 is concerned that seem to be without jurisdiction.

19. The subsequent order which is the second order dated 04.01.2010 which is annexed as annexure No. 2 to the writ petition, given by the investigating officer is hereby quashed. Let the appointing authority give a charge sheet to the petitioner in accordance with law as the charge against the petitioner is of a very serious nature and a departmental proceeding is in order.

20. With the aforesaid observations, the writ petition stands disposed finally.

21. The Registrar General of this Court is hereby directed to apprise the Director General of Police, Uttarakhand of this order for onwards compliance, as expeditiously as possible, in accordance with law.”

8. The Enquiry Officer has further recommended the punishment of **“demoting the petitioner to the lowest of the scale for one year”** against the petitioner in the body of the Inquiry report dated 19th February 2019. The action of the enquiry officer is illegal, arbitrary and against the provisions of law as well as against the judgments of Hon’ble Apex Court passed in State of Uttarakhand and other vs. Kharag Singh, reported in (2008) 2 SCC(L&S) 698, in which the Hon’ble Apex Court has held that enquiry officer can offer his views but cannot make strong recommendation for imposition of a particular punishment. The action of the enquiry officer is also against the judgment passed by Hon’ble Supreme Court of India in case of State of Uttar Pradesh vs Saroj Kumar Sinha, reported in (2010) 2 SCC 772, in which it has been held that enquiry officer should be wholly unbiased. The enquiry officer should not act as prosecutor as well as judge. This Tribunal in Claim Petition No. No 66/DB/2023, Yogesh Kumar vs State of Uttarakhand & others also quashed the impugned

orders of the Disciplinary Authority and the Appellate Authority on the ground that the enquiry officer has made the recommendation, not separately, but in the enquiry report itself. The relevant paragraphs of this judgment are as under:

“4. Learned Counsel for the petitioner submitted that the departmental enquiry suffers from two vices viz. (i) the charge sheet was given by the enquiry officer and not the disciplinary authority and (ii) the recommendation was made by the enquiry officer for punishment.

5. Learned Counsel for the petitioner drew attention of the Bench towards Rule 7 of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 (as amended in 2010), which is reproduced herein below:

“ 4. Substitution of Rule 7.- In the principal rules for Rule 7, the following rule shall be substituted, namely-

7. Procedure for imposing major punishment.-Before imposing any major punishment on a government servant, an inquiry shall be conducted in the following manner:-

(1)

(2) The facts constituting the misconduct on which it is proposed to take action shall be reduced in the form of definite charge or charges to be called charge sheet. The charge sheet shall be approved by the Disciplinary Authority.

Provided that where the appointing authority is Governor, the charge sheet may be signed by the Principal Secretary or Secretary, as the case may be, of the concerned department.

(3)

(17)”

In reply, learned A.P.O. submitted that there are specific rules for the police officers of subordinate ranks known as the U.P. Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991 (as applicable to the State of Uttarakhand) and therefore specific rules for police officers will apply.

6. Learned A.P.O. submitted that when, on the basis of preliminary enquiry, S.S.P. (disciplinary authority) was satisfied that departmental enquiry should be conducted, he nominated S.P. (crime) as enquiry officer. Enquiry officer [S.P. (crime)] supplied copy of charge sheet to the delinquent constable. Learned A.P.O. drew the attention of the Bench towards Appendix-I to U.P. Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991, which deals with ‘procedure relating to the conduct of departmental proceedings against police officer’ to submit that according to the form of charge sheet to be used in proceedings under Section 7 of the Police Act, 1961 (Form-1), enquiry officer is entitled to issue the charge sheet for and on behalf of disciplinary authority.

7. According to Cambridge Dictionary, 'on behalf of' means "done for another person's benefit or support, or representing the interests of a person." The meaning assigned to the words 'on behalf of' by Oxford English Dictionary are "in the interests of (a person, group or principle)"; 'as a representative of' and 'on the part of'."

8. On a perusal of the original record, the Bench finds that before issuing the charge sheet, approval of the disciplinary authority has not been obtained by the enquiry officer.

9. Even though under the U.P. Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991, enquiry officer may issue the charge sheet, but the same is 'for and on behalf of the disciplinary authority', which has not been done in the instant case.

10. Learned Counsel for the petitioner submitted that the enquiry officer is not entitled to recommend the punishment to the disciplinary authority.

11. In reply, learned A.P.O. submitted that the language of Appendix-I 'procedure relating to the conduct of departmental proceedings against police officer' is clear that the enquiry officer may make his recommendation regarding the punishment to be imposed on the charged police officer.

12. The Tribunal finds that the language used in Appendix-I, which is related to Rule 14(1) of U.P. Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991, has used the words 'the enquiry officer may also separately from these proceedings make his own recommendation regarding the punishment to be imposed on the charged Police Officer.' In the instant case, the enquiry officer has made the recommendation, not separately, but in the enquiry report itself. Disciplinary proceedings are vitiated on these two grounds alone.

13. The impugned punishment order, therefore, cannot sustain. The same is liable to be set aside and is, accordingly, set aside leaving it open to the respondent authority to initiate fresh departmental proceedings against the delinquent, in accordance with law.

14. Petition is disposed of by setting aside the impugned orders dated 24.02.2018, passed by the disciplinary authority and impugned order dated 10.07.2018, passed by the appellate authority leaving it open to the respondent department to initiate fresh departmental proceedings against the petitioner, in accordance with law. No order as to costs."

9. In the instant case, the enquiry officer has given the charge sheet as well as recommended the punishment in the enquiry report itself, which is not permissible in the eyes of law. Hence, in view of the above discussion and the judgment passed by the Hon'ble Courts and Tribunal, the punishment orders passed by the Senior

Superintendent of Police Udham Singh Nagar, the Disciplinary Authority dated 17.06.2019 and the Appellate order dated 24.10.2019 passed by the Deputy Inspector General of Police, Kumaon Region are liable to be quashed.

ORDER

The claim petition is hereby allowed. The impugned punishment order of the Disciplinary Authority dated PF-05/2016 dated 17.06.2019 and the Appellate Order dated 24.10.2019 passed by the Deputy Inspector General of Police, Kumaon Region are hereby quashed leaving it open to the respondent authorities to initiate fresh departmental proceedings against the petitioner, in accordance with law. No order as to costs.

RAJENDRA SINGH
VICE CHAIRMAN (J)

A.S.RAWAT
VICE CHAIRMAN (A)

DATED: NOVEMBER 03, 2025
DEHRADUN
KNP